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THE POLITICS OF THE PATRICIAN CLAUDII

BY GEORGE CONVERSE FISKE

IN this paper I shall endeavor to determine what general policy was advocated by the members of the Claudian gens who were active in Roman politics from the beginning of the republic down to the time of the Gracchi.¹ Upon this subject four distinct views are held. In the first place, ancient historians, of whom Livy, Dionysius of Halicarnassus, Diodorus Siculus, and Appian are the principal representatives, look upon the family as ultra-patricians. Thus Livy, in describing Appius Claudius, consular tribune of 403, dictator 362, consul 349, says:² 'Claudiae genti iam inde ab initio nihil antiquius in re publica patrum maiestate fuisse, semper plebis commodis adversatos esse.'

Of modern historians Herzog³ approaches most closely this traditional theory. He looks upon the Claudii as ultra-patricians, but believes that they wished to encourage the growth of a state within the state, to build up by the side of the patrician order a parallel plebeian order, well organized under strictly plebeian officials, but having no share in the larger activities of the state. In order to secure such dependence the tribunate was first of all to be abolished, and the union of the more progressive of the nobility with the tribunician families was opposed. In short, the Claudii were reactionaries, who wished to 'shepherd' the *plebs* in the omniscient fashion of the regal period.

The third view is that of Mommsen.⁴ Relying partly upon certain general Claudian characteristics, such as interest in literature and military incapacity, but principally upon a critical examination of the policy of the leading members of the house, Mommsen endeavored to show that the family were in reality champions of the plebeians. He even

¹ 495-133 B.C.

² Liv. 6, 40, 3. Cf. also Liv. 9, 33 ff.

³ *Römische Staatsverfassung*, Vol. I, pp. 179 ff. and pp. 265 ff.

⁴ *Römische Forschungen*, p. 287 ff.: *Die Patricischen Claudier*. Berlin, 1864.

suggested that the traditional view of the family might be traced to deliberate falsification on the part of one of the annalists, possibly Licinius Macer.

The fourth view is, that held by Nitzsch,¹ who believes that the policy of the decemvir, the censor, and the Claudius of the First Punic War had a common basis. They were representatives of the trading and commercial interests, advocates of expansion, and the champions of the *plebs urbana*. It was this guardianship of the despised city classes that brought them into conflict with the militant *plebs rustica*.

The proper method to decide which of these views is correct, or whether any of them is correct, is to review briefly all the ancient testimony dealing with the politics of the Claudian family, and from a critical examination of the facts thus gathered to formulate if possible such a general hypothesis as will best establish the broad outlines of a clan policy.² To prove the existence of such a policy it is not needful to make a sort of mathematical formula by which all the acts of the family may be solved as by a convenient process of substitution, but rather to give a rational explanation based upon a complete knowledge of the facts, an explanation which shall show a consistent development of policy along certain broad lines, due allowance always being made for the freedom of the individual and the changes wrought in political conditions by the lapse of time. Bearing these general considerations in mind we may begin our inquiry by examining the story of Attus Clausus, the founder of the family.

According to tradition the founder of the house was a Sabine of the town of Regillum or Inregillum, whose *praenomen* is variously given as Atta, Attius, Attus, his *nomen* as Clausus.³ The romanized form is said

¹ *Geschichte der Römischen Republik*. Leipzig, 1884.

² So far as I have been able to discover, this method has not yet been attempted by any of the writers on the subject. Mommsen's investigation is based upon a study of only the more important acts of the leaders of the family, while Herzog and Nitzsch have only suggested the lines along which such an inquiry should proceed, without collecting the evidence. I have to thank Dr. G. W. Botsford for the suggestion of this article and for much valuable advice and criticism.

³ Cf. Schwegler, *Geschichte*, II, p. 57, note 5, for the various forms of the *praenomen*. Though etymology gives but little help, the fact that in Festus, p. 12 and 13 (M), Atta is compared with *avus* and *atavus* is suggestive.

to have been Appius Claudius.¹ The most succinct form of his story is given by Livy: 'Attus Clausus, cui postea Appio Claudio fuit Romae nomen, cum pacis ipse auctor a turbatoribus belli premeretur nec par factioni esset, ab Inregillo, magna clientium comitatus manu, Romam transfugit, his civitas data agerque trans Anienem · vetus Claudia tribus, additis postea novis tribulibus, qui ex eo venirent agro, appellata. Appius inter patres lectus haud ita multo post in principum dignationem pervenit.' Of similar tenor, though with added picturesque details, is the account given by Dionysius.² The accounts of Appian and Plutarch³ are also much fuller than Livy's, Plutarch, indeed, makes Attus Clausus come to Rome at the invitation of Poplicola.

The essential points in the tradition are (1) the coming of a Sabine family with its clients to Rome after the expulsion of the kings; (2) the assignment of a definite portion of land in severalty to the new-comers, the leader getting by far the lion's share;⁴ (3) the election of the leader to the senate, which is equivalent to his admission into the patriciate.⁵ What judgment has modern criticism to pass on this tradition?

In the first place the belief in a Sabine origin is probably correct, for such a legend would rest upon a well established family tradition. Moreover, we hear of similar legends in other families, thus the Alban origin of the Julian gens is attested by the gentile altar at Bovillae.⁶ Suetonius tells of a similar migration of the family of Vitellius.⁷ Still more important, the *Fasti Capitolini* add *Inregillensis* or *Sabinus* as an epithet to several members of the gens.⁸ Moreover, the peculiar name

¹ Liv. 2, 16, 3; cf. Zonar. 7, 13, B; Gell. 13, 23, 8. Servius, on *Aen.* 7, 706, probably used Livy as source. Cf. also Liv. 4, 3, 14, 10, 8, 6.

² 5, 40, 3 ff.

³ App. *ἐκ τῆς Βασιλικῆς*, frag. 12, ed. Mendel; Plut. *Popl.* 21.

⁴ App. *l. c.* οἷς πᾶσι Ῥωμαῖοι χώραν ἐς οἰκίας ἔδωσαν καὶ γῆν ἐς γεωργίαν καὶ πόλιν ἐθέοντο. Plut. *l. c.* ἀπένειμεν ἐκάστῳ δυοῖν πλῆθρων παρὰ τὸν Ἀνίωνα ποταμὸν· τῷ δὲ Κλαύσῳ πλῆθρα πέντε καὶ εἰκοσι γῆς ἔδωκεν. Cf. also Dionys. *l. c.*, Liv. 2, 16, 3; Suet. *Tib.* 1.

⁵ App. *l. c.* τὸν δὲ Κλαύδιον καὶ ἐς τὸ βουλευτήριον κατέλεξαν. Dionys. *l. c.* ἡ βουλὴ καὶ ὁ δῆμος ἐς τοὺς πατρικίους αὐτὸν ἐνέγραψε. Cf. Plut. *Popl.* 21; Liv. 2, 16, 3; 4, 3, 14; 10, 8, 3; Suet. *Tib.* 1; Zon. 7, 13, B.

⁶ Cf. Tac. *Ann.* 2, 41; 15, 23; Suet. *Aug.* 100; *CIL.* I, 807. Preller-Jordan, *Röm. Myth.* I, p. 263; Marq. *Sacrales.* p. 133, note 5.

⁷ *Vitell.* 1. Cf., however, Mommsen, *Staatsrecht*, Vol. III³, 1, p. 31, note 4.

⁸ *CIL.* I, p. 426 (*a. u. c.* 303, 304); p. 430 (*a. u. c.* 392); p. 431 (*a. u. c.* 405).

Appius, found in no other Roman gens, is probably of Sabine origin.¹ And finally the *cognomen* Nero, borne by a distinguished branch of the gens, is almost certainly Sabine.²

But there seem to be decisive objections to the *form* of the tradition which assigns the migration of the family to the period immediately after the expulsion of the kings. For at this period Rome, shorn of its former regal domains, would be especially weak and unattractive to strangers. Then again the patriciate, through whose influence the Tarquins must have been expelled, would now be entering upon its policy of exclusiveness. Thirdly, it is hardly conceivable that the head of a foreign gens admitted into the state in the year 504 B.C. should be almost immediately (495 B.C.) advanced to the consulship. Moreover, although during the first two centuries of the republic we hear practically nothing of the admission of foreign gentes into the state, under the kings we hear of several such admissions.³ Finally we have another tradition,⁴ which places the arrival of the Claudian gens under the kings. This form of the tradition seems much more reasonable *a priori*, but after all we are probably dealing with one of those very early family traditions, originally handed down without date, which was afterwards assigned to a definite epoch, and consequently one better known, by the pragmatic historians of a later period.⁵

The assignment of a definite territory to the followers of Clausus is to be regarded as an aetiological account designed to interpret the undoubted connection between the original tribes and the gentes. This connection is proved by the patrician names attached to six-

¹ Cf. the name Numerius, peculiar to the Fabian gens, also immigrants. Cf. Mommsen, *Röm. Forsch.* I, 19.

² Suet. *Tib.* 1. Inter cognomina autem et Neronis assumpsit, quo significatur lingua Sabina fortis ac strenuus. Nerio among the Sabines was also the name borne by the wife of Mars. Indeed, the gentile altar of the Claudian gens at Antium (cf. Tac. *Ann.* 15, 23) is the only fact which does not square with the Sabine origin of the family. But this altar may have been established later.

³ Cf. Dionys. 2, 46 and 3, 29 for the admission of seven Alban gentes among the patricians. Cf. also Liv. 1, 30, 3, and the story of Tarquinius Priscus.

⁴ Suet. *Tib.* 1. Inde Romam recens conditam cum magna clientium manu commigravit, auctore Tito Tatío consorte Romuli.

⁵ So Mommsen, *Röm. Forsch.* p. 72.

teen ancient tribes.¹ *Attus Clausus is the founder or practically the eponym of a certain patrician gens of Sabine origin,*² which with its dependents was settled in a certain portion of the Roman territory. At some indefinite but early date, when this gens grew powerful, its territory was made into a tribe, and the then head of the gens was received into the senate.³ The tribe naturally received its name from the eponymous hero (for such the first bearer of the gentile name practically is), whom the gens believed to be its founder.⁴ If the gens was connected with the tribe, the eponymous hero of the gens would naturally come to be associated with the senate, because when *historically* the gens was recognized by the state, the person then at its head would be admitted into the senate.⁵ When later the aetiological story arose, this eponym of the gens would be looked upon as the first of a long line of nobles to be admitted to the senate. Or, to give a concrete illustration, the legend would say. Attus Clausus, the Sabine, was made a patrician and elected to the senate at the same time that the Claudian gens with its dependents became a tribe.

It would seem, then, that this quasi-admission to the state must have occurred at an early period, for the gens was powerful enough to gain the consulship in the year 495 B.C. In that case Livy would seem to be wrong in placing the coming of the Claudii so late as 504, it is difficult to believe that a stranger coming to Rome in that year would

¹ Mommsen, *Staatsrecht*, III³, 1, p. 26 ff.

² Though doubtless of Sabine origin, it may not be necessary to assume migration of the Claudian gens within any period of which history can take cognizance; for Livy, 1, 31, 1, represents the country south of the Anio as Latin, and regards the territory just across the river as debatable ground, though most of the actual settlements there are Latin. Pliny, however, *N. H.* 3, 54, makes the Anio the boundary between Sabine and Latin territory.

³ The Romans themselves seem to have regarded Clausus as a shadowy eponym. He is even classed with Aeneas. Cf. Tac. *Ann.* 4, 9, 3: cum origo Iuliae gentis Aeneas omnesque Albanorum reges et conditor urbis Romulus, post Sabina nobilitas, Attus Clausus ceteraeque Claudiorum effigies longo ordine spectarentur. Cf. also 12, 25.

⁴ Cf. Fest. p. 233 (M). Papiria tribus a Papirio vocata est.

⁵ This connection of the gentes with the senate is illustrated in Roman history by the admission of the *patres minorum gentium* into the senate. Cf. Liv. 1, 35, 6. So in Attica the close relation of the γένη and the Areopagus is well established.

become consul in 495. Moreover, we have just shown that Attus Clausus was a sort of eponym of the family, which was probably settled in Roman territory at a far earlier date. Hence we conclude that Livy identifies Appius Claudius, the consul of the year 495, with the eponym of the Claudian race. Nor is the reason far to seek; Livy would naturally consider the first historical member of the Claudian family whom he found in the annals identical with the founder of the family, in fact his annalistic sources may have made this erroneous combination before him. By adopting this view we get rid of the difficulty as to the time of the admission of the *tribus Claudia*,¹ for if the admission of the tribe to the state is naturally associated with the admission of the head of the gens to the senate, an identification of the founder of the gens with the first member of the gens known to history will naturally lead the pragmatic historian to transfer the admission of the tribe also to the better known period at the beginning of the republic.

Having thus shown that Attus Clausus is not to be identified with the consul of 495, we may now take up the history of this Appius Claudius, who may be regarded as the first member of the family clearly within the limits of our investigation.²

Appius Claudius is mentioned twice in inscriptions: first, in the *Fasti Capitolini*³ as the father of Appius Claudius the decemvir;⁴ second, in an inscription⁵ which reads.

AP. CLAVDIVS
Q · VRB
COS CVM P
SERVILIO PRISCO.

¹ This view greatly simplifies the interpretation of LIV. 2, 16, 5; but a consideration of the relation of the *vetus tribus Claudia* with the *tribus Crustumina* is beyond the scope of this paper.

² It would be more accurate to call Marcus Claudius, the father of the consul, mentioned in the *Fasti* under the year 450 B.C. as grandfather of Appius Claudius the decemvir, the first historical member of the family. It seems much simpler to assume that the family had been in Rome for several generations before the son of this Marcus became consul than with Luebbert *De Gente Claudiana*, p. 9, to identify this Marcus arbitrarily with Attus Clausus.

³ Under the year 450; cf. *CIL*. I, p. 426.

⁴ Cf. p. 9.

⁵ *CIL*. I, p. 279, no. 8.

This Appius Claudius Pulcher in his consulship delivers several speeches against the *plebs* or in defence of their creditors, the patricians. In Dionysius, in fact, his whole career is dramatically set forth in six speeches,¹ which represent him as an ultra-patrician. But such speeches may more fairly be called rhetorical exercises than history; for they could have had no basis in the meagre notices of the annalists, the only sources of value for this early period. In general it holds true that these purely rhetorical speeches are used as the principal means for setting forth dramatically the ultra-patrician tendencies of the Claudii, especially in the case of the less known members of the gens.

Therefore the bald annalistic notice of Livy,² 'Aedes Mercuri dedicata est Idibus Maiis,' is of far greater historical value than all these artistic descriptions. Later on Livy³ elaborates this notice, recounting the quarrel between the consuls as to who should dedicate the building, the reference of the matter to the people and their decision, and finally the institution of a *collegium mercatorum* in connection with the temple.

The first notice may probably be accepted as genuine. It is annalistic in form, and, as religious records were always kept by the Romans with scrupulous care, especially likely to go back to an early date. Of the second it is much more difficult to speak. The story of the quarrel between the two consuls and the popular election of a dedicator may well have been a later addition by some writer who wished to find a precedent for the formal method of filling that post.⁴ On the other hand, it seems extremely probable that the foundation of a college of merchants would be associated with the dedication of a temple to

¹ Cf. 5, 66-68; 6, 38; 6, 59-65; 6, 68; 7, 48-54; 8, 73; cf. also 6, 24 and 6, 47 for summaries of speeches. Livy, 2, 21-29 *passim*, adopts to a large extent the same dramatic method. Cf. also Plut. *Gaius Marcius*, 19. It is curious that in the last speech given in Dionysius, 8, 73, which deals with the agrarian law of Spurius Cassius, Appius is represented as showing a more favorable attitude towards the plebeians. This suggests the possibility of another tradition as to the politics of the early members of the family, a matter which will be more fully considered in connection with Appius Claudius the decemvir.

² Liv. 2, 21, 7.

³ Liv. 2, 27, 5.

⁴ Cf. Mommsen, *Staatsrecht*, I³, p. 42, note 5; II³, p. 618; Marquardt, *Sacrales*, p. 273, note 2. On whole subject cf. Marq. *op. c.* p. 135, notes 1 and 2. Fest. p. 148 (M); Ovid, *Fast.* 5, 669; Cic. *ad Quint. frat.* 2, 5; *CIL.* I, p. 206.

Mercury, the god of trade. In any case the connection of this incident with the consulship of Claudius is striking, as a small but definite fact best explained by the theory of Nitzsch.

Gaius Claudius Sabinus is called by Livy the son of the Appius Claudius whom we have just described.¹ He is also called the uncle of Appius Claudius the decemvir. During his consulship in the year 460² occurred the capture of the Capitoline by Appius Herdonius and the Sabine conspirators. In the year 457 he opposed the increase of the number of the tribunes to ten.³ Again in the year 454 he opposed the giving up of the Aventine to the people.⁴ Dionysius represents him as so hostile to the violence of the decemvir, his kinsman, that he finally withdrew to the seat of the family at Inregillum.⁵

Although in general such an ardent patrician, if the ancient accounts may be trusted, like nearly every true Claudian he heartily hated the Valerian gens. Thus in the year 449⁶ he is represented as arguing against the triumph of Valerius and Horatius, whom he accuses of having betrayed the decemvir to the tribunes. He appears for the last time in the struggle over the Canuleian law.⁷

Gaius Claudius is a character whose outlines are enveloped in haze. Almost all our information about him is contained in speeches. It is doubtful if he was the uncle of Appius the decemvir. One or two conclusions may perhaps be drawn, of only approximate probability. In the first place he seems to have opposed⁸ the tribunician policy. Secondly, he was the adversary of the Valerian gens. His attitude

¹ Liv. 3, 15, 1; Dionys. 10, 9. In Liv. 3, 35, 9; 3, 40, 2, and Dionys. 11, 49 Gaius appears as the uncle of Appius Claudius the decemvir; but since, as I shall show below, Appius Claudius the consul of 471 is to be identified with the decemvir, it follows that the relationship between the two could not have been that of uncle and nephew, though in the absence of the *Fasti* it is difficult to say precisely what it was.

² On his consulship see Dionys. 10, 9-19; Liv. 3, 15-21, 8.

³ Dionys. 10, 30.

⁴ Dionys. 10, 32.

⁵ For his speeches cf. Dionys. 11, 7-15; for withdrawal, Dionys. 11, 22; Liv. 3, 58, 1. Later, however (cf. Liv. 6, 20, 3), he returned to defend the decemvir.

⁶ Dionys. 11, 49.

⁷ Dionys. 11, 55; 11, 56; Liv. 4, 6, 7.

⁸ Liv. 4, 6, 7. C. Claudii sententia consules armabat in tribunos.

towards the decemviral legislation, which is set forth almost entirely in speeches, is problematical.¹ His career certainly affords no support for Mommsen's theory, but should be regarded rather as an illustration of the traditional view of the family, supported, it will be observed, rather by rhetorical speeches than by recorded acts. In the absence of any such records to check the assertions of the speeches it is almost impossible to discover his real position.

Under the year 471 B.C. Livy says:² 'Plebs Voleronem tribunum refecit, patres, ad ultimum dimicationis rati rem venturam, Ap. Claudium, Appi filium, iam inde a paternis certaminibus invisum infestumque plebi, consulem faciunt.' The statement of Dionysius³ is similar. These two authors, then, make this Appius the son, and Appius Claudius the decemvir the grandson, of the consul of 495. On the other hand, the *Fasti Capitolini* under 303 *a. u. c.* run:⁴

AP·CLAVDIVS AP F M N CRASSINRGILL

This would identify the consul of 471 with Appius the decemvir, who would thus become not the grandson, but the son, of the consul of 495. Before considering this consulship we must settle the question of identity.

The testimony of the *Fasti* seems more probable to me for three reasons. First, it represents in general a better, because a more direct, tradition than the testimony of Livy and Dionysius. Second, it seems unreasonable to suppose that an untried man, which Appius would have been according to the genealogy of Livy and Dionysius, would be placed at the head of a commission like the decemvirate, demanding maturity, legal knowledge, and political sagacity. Third, we seem to have preserved in Livy evidence that Appius Claudius had previously been of some importance in politics. The passage in question reads:⁵ 'Regimen totius magistratus penes Appium erat favore plebis.' This seems clearly to imply earlier political activity, for the *plebs* would hardly favor a man of whom they knew nothing. Nor does

¹ Liv. 3, 35, 9: Gaio Claudio, constantissimo viro in optatum causa. On the other hand (cf. Dionys. 11, 49) he accuses the Valerii and defends the decemvir. Cf. also Liv. 3, 58, 1.

² Liv. 2, 56, 5.

³ Dionys. 9, 42.

⁴ *CIL*. I, p. 426.

⁵ Liv. 3, 33, 7.

Livy's further assertion, 'adeoque novum sibi ingenium induerat, ut plebicola repente omnisque auræ popularis captator evaderet pro truci saevoque insectatore plebis,' militate against this view. It is only Livy's clumsy effort to explain away the contradiction of a man whom he supposed to be an ultra-patrician appearing at the head of a commission which published a code of laws that would greatly benefit the plebeians. I shall therefore, in accordance with the evidence of the *Fasti*, assume that Appius Claudius the decemvir became consul for the first time in the year 471 B.C.¹

The most important event during the consulship of 471 was the contest over the famous Publilian law of Volero, which Appius, according to Livy and Dionysius, assailed vehemently. The fact of opposition to this law seems to be fairly made out, though the details are doubtless greatly embellished.² If, then, we can find out what the real purpose of the law was, we can perhaps form some idea of the policy of Appius.

Livy³ quotes the provisions of the law as follows 'Rogationem tulit ad populum, ut plebei magistratus tributis comitiis fierent.' So also Dionysius⁴ νόμον εισφέρει περί τῶν δημαρχικῶν ἀρχαιρεσίων, μετάγων αὐτὰ ἐκ τῆς φρατριακῆς ψηφοφορίας, ἣν οἱ Ῥωμαῖοι καλοῦσιν κουριάτιν ἐπὶ τὴν φυλετικὴν. This law, which virtually established the *comitia tributa*, was of inestimable value to the plebeians. Only land-holders could vote in the *comitia tributa*; hence the law really laid the foundation of a free, landholding peasant caste, distinct on the one hand from the old patrician nobility, and on the other from the non-landholding city plebeians. As this last class must at this early period have stood

¹ According to Dionysius, 8, 90, Appius, a violent patrician, ran for the consulship in the year 483. He was set aside, however, by the opposition of the tribunes. This notice, which is found in no other ancient authority, may perhaps be rejected. It seems more than doubtful whether the tribunes, who were established only in 494, eleven years before, could have gained so great power. Second, and far more important, this incident comes in the midst of what we may call the Fabian period, in which the Fabii held several successive consulships. Cf. Liv. 2, 43, 1; 43, 11; 48, 1; 48, 8. Hence it seems improbable that the leaders of the Fabian family, in whose hands the government then rested, would push forward the Claudii, their rivals. The passage perhaps represents a sort of historical reconstruction made at a later period.

² Dionys. 9, 42, 9, 44-46; Liv. 2, 56.

³ Liv. 2, 56, 2.

9, 41, 2; cf. also 9, 43.

for the most part in the relation of clients to the patricians, we can see that through them the patricians could exercise a most important influence on elections, for though these clients had the technical right to vote in the *comitia*, they were held guilty of a sort of sacrilege if they voted differently from their patrons. This class of city clients therefore lost their vote in order that the body of the rustic plebeians might be sharply differentiated from the patricians by having the right to elect their own magistrates in their own assemblies. Opposition to this law, therefore, cannot be interpreted as in the interests of the plebeians, but must be explained either as in the interests of the old nobility or as an effort to preserve for the city classes their right to vote. In other words, this action of Appius, inexplicable from the standpoint of Mommsen, admits of consistent explanation by the hypothesis of Herzog or of Nitzsch.¹

If our identification of Appius is correct, we must reject all that is said about his trial and death in 471.² But before describing the struggle of the year 450, it is necessary to know something of the events leading up to the appointment of the decemviral commission.

After a long contest, beginning with the Terentilian rogation of 462 B.C.,³ it was finally decided that Rome should have a code of written law. In the year 454 B.C. ambassadors⁴ were sent to the Greek cities of lower Italy and to Athens to make a study of the constitutions of those states. When the commissioners returned in the year 451 it was ordered: 'creari decemviros sine provocatione et ne quis eo anno alius

¹ The quarrel with Laetorius (Liv. 2, 56, 10; Dionys. 9, 44-46), the story of the war with the Volsci (Liv. 2, 58-60; Dionys. 9, 50; Zonar. 7, 17), and the controversy over the agrarian law (Liv. 2, 61, 2-8; Dionys. 9, 52-54; Zonar. 7, 17, B), even if true, are incidents of no historical significance. The account of the war probably reflects in dramatic fashion the well-established belief of the ancient historians that the whole Claudian race was ineffective in the field.

² A comparison of the passages collected in the note above with the account of the last years of Appius Claudius the decemvir will reveal a striking general similarity.

³ Liv. 3, 9, 5; Dionys. 10, 1.

⁴ Liv. 3, 31, 8. Cum de legibus conveniret, de latore tantum discreparet, missi legati Athenas Sp. Postumius Albus, A. Manlius, P. Sulpicius Camerinus, iussique inclitas leges Solonis describere et aliarum Graeciae civitatum instituta mores iuraque noscere. Cf. Dionys. 10, 51, 10, 52; Zonar. 7, 18 C.

magistratus esset.¹ There was some discussion as to how this board should be divided between the orders, but it was finally decided that it should be chosen from patricians and plebeians indiscriminately.² In point of fact only patricians were chosen,³ and among them Appius Claudius at once gained the leading position.⁴ The absence of plebeians from the board made no difference, for the decemvirs conducted themselves with much moderation⁵ and an era of good feeling prevailed among all parties at Rome.⁶ Ten tables of law were promulgated. When the end of the year drew near the work of the decemvirs had not yet been completed, for two more tables still remained to be

¹ Liv. 3, 32, 6. Cf. also 3, 33, 3: Decemviri creati Ap. Claudius, T. Genucius, P. Sestius, L. Veturius, C. Iulius, A. Manlius, P. Sulpicius, P. Curiatius, T. Romilius, Sp. Postumius. Diod. 12, 23: ἐν δὲ τῇ Ῥώμῃ δέκα ἄνδρες κατεστάθησαν νομογράφου Πόπλιος Κλώδιος Ῥηγίλλανος, Τίτος Μινούκιος, Σπύριος Οὔετούριος, Γαῖος Ἰούλιος, Γαῖος Σουλπίκιος, Πόπλιος Σήσιτιος, Ρωμύλος, Σπύριος Ποστούμιος, Καλβίνιος. οὗτοι τοὺς νόμους συνετέλεσαν. Dionysius, 10, 54, 2137, describes the successful efforts of the popular leaders to get Appius, consul-elect for the year 450, interested in the measure. The *Fasti* for the year, though mutilated, contain the names of many of the decemvirs; cf. *CIL*. I, p. 426.

² Liv. 3, 31, 7. Si plebeiae leges displicerent, at illi communiter legum latores et ex plebe et ex patribus, qui utrisque utilia ferrent quaeque aequandae libertatis essent sinerent creari. Cf. also 3, 32, 7. Admiserentur ne plebei controversia aliquamdiu fuit; postremo concessum patribus, modo ne lex Icilia de Aventino aliaeque sacrae leges abrogarentur. Livy, then, implies that the plebeians voluntarily resigned certain places on the first decemvirate for other concessions.

³ Cf. *Fasti*, *CIL*. I, p. 426.

⁴ Liv. 3, 33, 7: Regimen totius magistratus penes Appium erat favore plebis. On early controversies cf. Dionys. 10, 55, 2140.

⁵ Liv. 3, 34, 1 Cum promptum hoc ius velut ex oraculo incorruptum pariter ab iis summi infimique ferrent, tum legibus condendis opera dabatur. Cf. Dionys. 10, 57, 2143.

⁶ Dionys. 10, 57, 2144: ἐλέχθη τε ὑπὸ πολλῶν, ὥς οὐδὲν ἔτι δεῖσθαι δήμου προστατῶν οὐδὲ τῶν ἄλλων ἀρχείων τῇ πόλει, μιᾶς διοικούσης ἅπαντα ἡγεμονίας σώφρονος, ἧς ἀρχηγὸς Ἀππίος εἶναι ἐδόκει. καὶ τὸν ὑπὲρ ὅλης τῆς δεκαδάρχιας ἔπαινον ἐκεῖνος ἐφέρετο παρὰ τοῦ δήμου. Cf. also 10, 58, 2147. Cf. Liv. 3, 34, 1, on the laws: Ingentique hominum expectatione propositis decem tabulis populum ad contionem advocaverunt. Livy, 3, 34, 2-6, gives a pleasing, not to say idyllic account of their efforts to promulgate just laws. Cf. also Dionys. 10, 57, 2144. οὗτοι οἱ δέκα ἄνδρες συγγράψαντες νόμους ἐκ τε τῶν Ἑλληνικῶν νόμων καὶ τῶν παρὰ σφίσιν αὐτοῖς ἀγράφων ἐθισμῶν προὔθηκαν ἐν δέκα δέλτοις τῷ βουλευμένῳ σκοπεῖν.

added. Appius therefore determined to be a candidate for reëlection,¹ and an idea of making the decemvirate permanent may have arisen.² At any rate the most prominent members of the patrician aristocracy resolved to become candidates for office in the ensuing year,³ and to put Claudius out of the field by making him the presiding officer of the assembly. They expected that in accordance with precedent he would refuse to receive votes for himself. Claudius was not, however,⁴ to be cheated in this fashion. He not only canvassed votes for himself,⁵ but in alliance with the tribunician families of the Icili and Duilii⁶ succeeded in controlling the election.⁷ The new board contained at least three plebeians, and the patricians elected, with the exception of Fabius, were men of no importance, completely under the sway of Appius.⁸ Thus in control of affairs the decemvirs, with Appius at their head,

¹ Liv. 3, 34, 7. *Vulgatur deinde rumor duas deesse tabulas, quibus adiectis absolvi posse velut corpus omnis Romani iuris. Ea expectatio, cum dies comitiorum appropinquaret, desiderium decemvros iterum creandi fecit.* Dionys. 10, 58, 2146: *πολλῶν δὲ λεχθέντων ἐνίκησεν ἡ γνώμη τῶν παραινούτων δεκαδρχίαν αὐτοῖς ἀποδεῖξαι τῶν κοινῶν κυρίαν. ἀτελὴς γὰρ ἡ νομοθεσία ἐφαίνετο.*

² Liv. 3, 34, 8: *Iam plebs, praeterquam quod consulum nomen haud secus quam regum perosa erat, ne tribunicium quidem auxilium cedentibus in vicem appellationi decemvris quaerebat.* Dionys. 10, 58, 2146: *καὶ ἐτι τοῖς ἤδη κεκυρωμένοις ἵνα ἐκόντες τε καὶ ἄκοντες ἐν αὐτοῖς μένοιεν ἐδόκει δεῖν τινος ἀρχῆς αὐτοκράτορος. τὸ δὲ μάλιστα πείσαν αὐτοὺς προελέσθαι τὴν δεκαδρχίαν, ἣν ἡ τῶν δημάρχων κατάλυσις, ὃ παντὸς μάλιστα ἐβούλοντο.* Hence we infer that with the popular consent both consulate and tribunate were to be abolished.

³ Liv. 3, 35, 1 and 2: *Postquam vero comitia decemvris creandis in trinum nundinum indicta sunt, tanta exarsit ambitio, ut primores quoque civitatis . . . honorem summa ope ab ea plebe, cum qua contenderant, suppliciter petentes.* Cf. Dionys. 10, 58, 2146.

⁴ Liv. 3, 35, 7 and 8. *Ars haec erat, ne semet ipse creare posset, quod praeter tribunos, et id ipsum pessimo exemplo, nemo umquam fecisset.*

⁵ Liv. 3, 35, 8 and 9.

⁶ Liv. 3, 35, 5. *Criminari optimates, extollere candidatorum levissimum quemque humillimumque, ipse medius inter tribunicios Duillios Iciliosque, in foro volitare, per illos se plebi venditare.*

⁷ Liv. 3, 35, 11. *Creata cum eo M. Cornelius Maluginensis, M. Sergius, L. Minucius, Q. Fabius Vibulanus, Q. Poetilius, T. Antonius Merenda, K. Duillius, Sp. Oppius Cornicen, M' Rabuleius.* Cf. Diod. 12, 24.

⁸ Dionys. 10, 58, 2148: *ἄνδρες οὐ πάντῃ ἐπιφανεῖς· ἐκ δὲ τῶν δημοτικῶν Κόιντος Ποιτέλλιος καὶ Δουέλλιος καὶ Σπόριος Ὀππιος.* Cf. also *Fasti, CIL. I, p. 426.*

entered upon a course of oppressive tyranny.¹ According to the ancient authorities the climax of their course was reached when they refused to resign their office at the end of the term,² and brought about the assassination of Siccius Dentatus³ and the death of Virginia.⁴ Then followed a revolution and a secession of the *plebs*, resulting in the abolition of the decemvirate, the restoration of the tribunate, and the passage of the Valerio-Horatian laws.⁵

Let us now examine how each of the four theories already mentioned accounts for these facts. First, the theory of the ancient authorities. Dionysius⁶ tells us that the people gave Appius the praise flowing from the conduct of the decemvirate. Of the conduct of Appius during the

¹ Liv. 3, 36; Dionys. 11, 22.

² Liv. 3, 36, 9: *Opinio etiam sine auctore exierat, non in praesentis modo temporis eos iniuriam conspirasse, sed foedus clandestinum inter ipsos iure iurando ictum, ne comitia haberent perpetuoque decemviratu possessum semel obtinerent imperium.* In Dionys. 11, 6, 2173, Appius is made to say: *οὐ γὰρ εἰς ἐνιαυτὸν ἀπεδείχθημεν οὐδ' εἰς ἄλλον τινὰ χρόνον ὠρισμένον, ἀλλ' ἕως ἂν καταστησώμεθα πᾶσαν τὴν νομοθεσίαν.* Cf. in general Liv. 3, 37, 4-38, 1; Dionys. 10, 59.

³ Liv. 3, 43; Dionys. 11, 25-28.

⁴ Liv. 3, 44-48; Dionys. 11, 28-39. It is not the purpose of this paper to discuss the story of Virginia. It seems to me impossible to decide whether it is substantially true, or a popular legend, originally current without particular date, but at a later period attached to Appius Claudius. Even if substantially correct, the incident could not have been the *real* cause of the revolution; for the fall of the decemvirs was due to the union of the patricians and the rustic *plebs* under the leadership of the tribunes. On the other hand, the evidence in favor of regarding the story as a popular legend has weight. Livy (3, 44, 1) himself notices the close parallel between this story and that of Lucretia. In the new Pauly lexicon it is pointed out by Münzer, the author of the article on the decemvir, that even in Cicero's time (cf. Ascon. on *pro Cornelio*, p. 68) the story knew no definite names. So also in Diodorus, 12, 24, whose account probably goes back to very early sources, we are merely informed. *εἰς δ' ἐξ αὐτῶν ἐρασθεὶς εὐγενούς παρθένου πενυχρᾶς κτλ.* This certainly looks like a typical story, and the phrase *εὐγενὴς παρθένος πενυχρά* seems to me to imply a girl of patrician birth. Moreover, as Eduard Meyer, *Rh. Mus.* XXXVII, p. 618, has pointed out, the tendency in the history of the decemvirate to develop by vivid examples the idea of the extraordinary powers enjoyed by the commission is very noticeable. Cf. also Mommsen, *Staatsrecht*, II³, 1, p. 716. On the legal aspects of the case cf. R. Maschke, *Der Freiheitsprozess im klassischen Alterthum insbesondere der Prozess um Virginia*, Berlin, 1888.

⁵ Liv. 3, 49-55 *passim*, Dionys. 11, 40-45.

⁶ 10, 58, 2149.

second year Livy¹ says. 'Ille finis Appio alienae personae ferendae fuit; suo iam inde vivere ingenio coepit, novosque collegas, iam priusquam inirent magistratum, in suos mores formare.' Livy and Dionysius² therefore regard the conduct of Appius during the first year as mere hypocrisy, that of the second year as a revelation of his true character. Besides being open to psychological objections this view can hardly be said to account satisfactorily for the facts. Is it reasonable to suppose that mere hypocrisy would go so far as to pass a code of laws of the utmost benefit to the plebeians? Moreover, if Claudius was a champion of the patricians why did so many of the patrician gentes oppose him,³ and seek to secure the election of some of their own order for the second year?⁴ Why were the Valerian and the Horatian families the leaders of the movement that brought about his overthrow? Why did Claudius himself elect only mean patricians and even several plebeians?⁵ These are a few of the questions that naturally suggest themselves when we read the account of the ancient historians. They are not to be answered by the simple hypothesis that the decemvirs were aiming at royal power. In fact the traditional account of the decemvirate involves so many contradictions that even Herzog, who sticks closest to the ancient view, is forced to make a wide deviation.⁶

Summarily stated, Herzog's view is that Appius Claudius wished to remove the permanent opposition of the tribunes, not by admitting them to the patriciate, but by preserving their strictly plebeian character. He even proposed to strengthen the barriers between the two classes by the refusal of the *conubium*.⁷ On the other hand, a limitation of the power of the magistrates and senate was to be made in such a manner that the preponderance of the patricians was still assured, but to the plebeians was given a sort of minority representation.

Herzog accounts for the fact that there was some patrician opposition to the work of Appius, but it is clear that even from our modern standpoint he makes the decemvirs occupy a quixotic position. His view

¹ Liv. 3, 36, 1. Cf. 3, 33.

² Cf. 10, 57 ff. *passim*.

³ Liv. 3, 37, 2: *Primores patrum odisse decemviros, odisse plebem*. Cf. Dionys. 11, 22.

⁴ Cf. p. 13.

⁵ Cf. p. 13.

⁶ Cf. Herzog, *op. c.* p. 179 ff.

⁷ On the *conubium* cf. p. 21.

about minority representation is far-fetched, and he fails to explain how any considerable number either of patricians or plebeians could have been brought to favor such a theory; yet apparently Appius had the approval of the whole state during the first year. In short, minority representation, which even to-day is the property of political theorists rather than of practical statesmen, is an anachronism in the time of the decemvirs.

Mommsen's theory that Appius was acting as the champion of the plebeians well explains two facts: (1) that the legislation of the Twelve Tables was passed in answer to a plebeian demand; (2) that plebeians were members of the board during the second year. On the other hand, it throws no light on the positive testimony of all ancient historians that the plebeians in the second year, anxious to escape from the exactions of Appius and his colleagues, sought aid from the patricians.¹ The patricians, however, held back,² not that they loved Appius, but because they disliked to see the restoration of the tribunate. Finally, however, the *necessities of war* brought about the union of the plebeians and patricians; a *secession of the army*, that is a secession of the rustic plebs under patrician leaders, forced the decemvirs to lay down their office. The question is, put in homely fashion: Did Appius 'go back' on the plebeians or did the plebeians 'go back' on Appius? The former view is that enunciated in the ancient historians, the latter is that forced upon us by the hypothesis of Mommsen. In either case the sudden crisis has no sufficient motive in such stories as that of Siccius Dentatus or Virginia, and is in reality equally inexplicable by either of these two theories.

Finally, Nitzsch³ suggests that at the time when the laws of the Twelve Tables were passed a great trade revolution under the lead of Athens was going on all over the Mediterranean. This involved the improvement of the lower trading classes.⁴ It was at this juncture that Appius Claudius appeared, and sought, with his high appreciation of

¹ Liv. 3, 37, 1. Cf. 3, 38, 10.

² Liv. 3, 41, 5.

³ *Gesch. der Röm. Rep.* p. 70 ff.

⁴ Cf. Liv. 3, 35, 4. Appius extollere candidatorum levissimum quemque humillimumque. Cf. also 3, 35, 9: Nequaquam splendore vitæ pares decemvros creat.

Athenian economics, inspired also by the traditional policy of his house, to break up the power of the *plebs rustica*. By a division of power, which apparently satisfied all classes, he believed himself so far assured of support that, relying upon the *plebs urbana*, he made the attempt to give the constitution of Rome a turn in favor of trade relations. The reaction arose from the restlessness of the *plebs rustica* and of those patrician families who believed their interests endangered. The senate and consulate were restored and the old constitution was again set up.

So far as Athens is concerned the theory of Nitzsch is undoubtedly sound, for that city, as the result of the wise and liberal policy of Themistocles and Pericles, was then at the height of its economic and political supremacy. Furthermore, Droysen in his monograph *Athen und der Westen*,¹ has proved conclusively the existence of an active trade between Athens and Italy, carried on both directly and indirectly by way of Corinth and Corcyra. Long before the period of the decemvirs we may detect the influence of Greece upon Roman politics and religion. In the political sphere, for example, the timocratic Servian constitution at once suggests a parallel with the reforms of Solon; the Greek system of weights and measures and of silver coinage certainly served as a model for the Romans. In religion, however, this foreign influence, prevailingly Greek, was most strongly felt. Hence we find that under the influence of the Sibylline books not only were Greek gods introduced at Rome, but the cult of many original Roman deities was assimilated in greater or less degree to that of the corresponding Greek divinities.²

When, however, we turn to the other side of the account and examine the condition of commerce at Rome before the decemvirs, we find surprisingly little evidence. The dynasty of the Tarquins, the use of Etruscan architects³ and of the Etruscan regalia for magistrates,⁴ the

¹ Berlin, 1882. The principal ancient passages illustrating this fact are: Herod. 8, 62; Plut. *Them.* 32; Xen. *Ath. Polit.* 2, 7; Aesch. *Eum.* 567; Athen. 27 E; 28 B; Pliny, *N. H.* 18, 12, 1; Aristoph. *Achar.* 925; Timaeus, *Frag.* 99 M. Cf. also Holm, *Griech. Gesch.* I, p. 295, note 11, and Droysen's monograph, *passim*.

² E. g. Apollo introduced, cf. Marq. *Sacrales.* p. 359. Later Aesculapius, *ibid.* p. 376. For identifications, cf. Diana with Artemis, *ibid.* p. 361; Ceres with Demeter, *ibid.* p. 362; and p. 375, on dedication of temple to Mercury.

³ Liv. 1, 56, 1.

⁴ Liv. 1, 8, 3.

prominence of the *haruspices*,¹ the name *Vicus Tuscus*,² and notice of grain importations from Etruria, all show the community³ of interest then existing between Rome and Etruria. Ostia was of course founded for commercial purposes,⁴ and Antium must have been a trading centre.⁵ Moreover, fairs were held both at the temple of Diana on the Aventine and in the grove of Feronia at Soracte.⁶ In view of this paucity of evidence Mommsen's conclusion seems well founded, that in Latium commerce was passive and consisted principally in the exportation of raw products, and that Rome was still preëminently an agricultural community, with no special class of merchants engaged in transmarine commerce.⁷ We must not, however, too hastily infer that the artisan class and the small traders had gained no foothold at Rome. We have evidence to the contrary. Thus the foundation of eight guilds of craftsmen is assigned to the reign of Numa.⁸ In the census of Servius also we have two centuries of *fabri*.⁹ We hear of traders' booths about the forum,¹⁰ and Dionysius¹¹ mentions the condition and numbers of the trading classes several times. The meagreness of this evidence should not surprise us, for in the first place we must remember that the ancient historians had no conception of the importance of economic history, and in the second place, down to the time of the Second Punic War the basis of Roman civilization was mainly agricultural.

For the period of the decemvirate we have at least more abundant and explicit evidence of a direct and indirect connection between Greece

¹ Cf. Cic. *de Deor. Nat.* 2, 11.

² Liv. 2, 14, 9.

³ For grain importations in general, usually including Etruria, cf. Liv. 2, 34, 3; 4, 12, 9; 4, 25, 4; 4, 52, 5; Dionys. 5, 26; 7, 1.

⁴ Dionys. 3, 44; Liv. 1, 33, 9.

⁵ Dionys. 9, 56; Liv. 3, 1, 5.

⁶ Dionys. 3, 33; Liv. 4, 24.

⁷ Mommsen, *Röm. Gesch.* I⁸, p. 197

⁸ Plut. *Numa*, 17; Flor. 1, 6; Fest. p. 149 (M); Marq. *Sacrales.* p. 138. On other guilds cf. *CIL.* VI, 1872; Fest. pp. 210, 238, Orelli, 4091, Ovid, *Fast.* 3, 819-832. The semi-religious character of most of the guilds is one of the best proofs of their early origin.

⁹ Liv. 1, 43, 3 ff.

¹⁰ Liv. 3, 27, 2, Fest. p. 230: *Plebeas tabernas novas vocant nostra aetate, ut dicunt V tabernas esse, et septem feruntur olim fuisse*

¹¹ Dionys. 6, 51, 9, 25, cf. also 10, 1, 10, 48.

and Rome, first, in the story of the embassy¹ sent to Athens to gather information about Athenian law, and in the closely related story of the Greek Hermodorus, second, in the evidence of Greek influence contained in the laws of the Twelve Tables themselves. The story of the embassy is given briefly by Livy 'Missi legati Athenas Sp. Postumius Albus, A. Manlius, P. Sulpicius Camerinus iussique inclitas leges Solonis describere et aliarum Graeciae civitatum instituta, mores, iuraque noscere.' This account is accepted by Busolt² as genuine, and as it is well attested by the ancient authorities and not intrinsically improbable, I am inclined to acquiesce in this decision. On the other hand, the story of the connection of the Ephesian interpreter Hermodorus with the code is very doubtful, the name itself suggests the ideal interpreter, 'the gift of Hermes.'³

Far more important, however, is the evidence of Greek influence to be found in the code of the Twelve Tables itself, both in general arrangement and in certain specific laws. Even here, however, we must never forget that the general character of the code is essentially Roman.⁴ Hence such broad statements as that of Pliny,⁵ 'hanc esse terram (i. e. Athens) quae nobis miserit iura, quae leges non victis sed petentibus dederit,' are merely illustrations of the common tendency of Roman writers to seek a Greek origin for Roman institutions. To Greek influence, however, was due a more compact and logical arrangement than is usual in such early codes.⁶ But this influence is most evident in certain laws which we are expressly told are imitations of Athenian law. Among these may be mentioned, (1) the law governing funeral expenses and the methods of mourning, copied from Solon's code;⁷ (2) a law on prodigality, said to be of Corinthian origin;⁸ (3)

¹ Liv. 3, 31, 8, Dionys. 10, 51, 2128, 10, 52, 2130; Cic. *pro Flacc.* 62; Pliny, *Epist.* 8, 24, 14, Hieron. *Chron.* 2, 105, ed. Schöne; Aug. *C. D.* 3, 17, 7, 10; Oros. *adv. Pag.* 2, 13, Lyd. *de Mag.* 1, 31, Cassiod. *Chron.*, ed. Momm. in *Abh. der kön. sächs. Ges. der Wiss.* VIII, 596.

² *Griech. Gesch.* III, 1, p. 522 (ed. 1897).

³ Plin. *N. H.* 34, 21, Strab. 14, 1, 25, *Dig.* 1, 2, 2, 4.

⁴ Voight, *Die XII Tafeln*, p. 15 ff.

⁵ *Epist.* 8, 24, 4. Cf. Dio. Cass. 44, 26; Serv. *Aen.* 7, 695; Arr. *Ars Tact.* 33, 5, Porcius Latro, in *Catil.* 20; Flor. 1, 17; Euseb. *Chron.* 2, 104, ed. Schöne.

⁶ Maine, *Ancient Law*, p. 14.

⁷ Cic. *de Leg.* 2, 59; 2, 64. With these passages cf. Plut. *Solon*, 21.

⁸ Lydus, *de Mag.* 1, 42.

other laws more directly affecting the trading classes. Of this nature was the law on boundaries, said by Gaius to be copied directly from Solon,¹ and, still more important, the law on guilds within the state, of which Gaius says: 'Sodales sunt, qui eiusdem collegii sunt, quam Graeci *ἐταιρείαν* vocant. His autem potestatem facit lex pactionem quam velint sibi ferre, dum ne quid ex publica lege corrumpant. Sed haec lex videtur ex lege Solonis tralata esse.'² Finally it seems probable that some coinage regulations were included in the code. We know that in the laws of the Twelve Tables money sums are mentioned, and adding to this the fact that the annalistic notices set the first legal regulation of cattle fines just before the time of the decemvirs, it seems not unreasonable to suppose that the laws of the Twelve Tables first introduced a metallic coinage in place of a system of valuations in cattle.³

It would seem, then, that there probably was at Rome at the time of the decemvirs a considerable class of artisans, shopkeepers, and petty merchants, that communications were maintained with Etruria, southern Italy, and Sicily, and that the importance of a circulating medium was beginning to be felt. There is practically no evidence to show the existence of a commercial class engaged in foreign trade. It therefore seems dangerous to assume that Appius *was trying to legislate such a class into existence*. The trading classes were apparently in a subordinate position, which they may have had since the time of Servius Tullius. There is evidence that several of the laws of the Twelve Tables were passed in the interest of the trading classes. This is especially true of the law of the guilds. As a result of such laws at Athens demiurgic gentes like the *χαλκίδαι*, *πραξιεργίδαι*, *κροπίδαι*, *πέλεκες* began to be formed, as commerce grew.⁴ Hence the transference of this law to the code of the Twelve Tables, the regulations about coinage, and the demarcation of property, all show that the decemvirs, with Appius Claudius at their head, had a keen desire to improve the economic

¹ Gaius, *Dig* 10, 1, 13.

² Gaius, *Dig* 47, 22, 4. *ἐὰν δὲ δῆμος ἢ φράτορες ἢ ιερῶν ὀργίων ἢ ναῦται ἢ σύσσιτοι ἢ ὀμβταφοὶ ἢ θιασῶται ἢ ἐπὶ λείαν οἰχόμενοι ἢ εἰς ἐμπορίαν, οἳ ἂν τούτων διαθῶνται πρὸς ἀλλήλους κύριον εἶναι, ἐὰν μὴ ἀπαγορεύσῃ δημόσια γράμματα.*

³ Hultsch, *Metrol.* p. 254, note 3, gives arguments and ancient evidence.

⁴ Cf. Busolt, *Griech. Gesch.* II², pp. 97, 98.

conditions of trade and property, but when Nitzsch assumes that this was the *main purpose* of their legislation he makes a mistake in emphasis.

The key to the history of the decemvirate is to be found in the struggle over the addition of the last two tables. In the first year Appius got into power by a union of all parties, the patricians, the rustic *plebs*, among whom the Icili and the Duilii are especially mentioned, and the city plebeians.¹ Though an era of good feeling² prevailed, we may detect signs of patrician opposition towards the end of the term in the efforts of the nobility to supplant Appius in office. This implies either a recognition on the part of the patricians of the power of the new magistracy or of the crucial character of the laws of the last two tables. In the election which followed, though the patricians seem as a whole to have opposed Appius, he won because the coalition of the rustic plebs and the 'worthless' patricians and their clients, that is the *plebs urbana*, remained faithful to him.

The real struggle in the history of the decemvirate must have come over the passage of the laws in the last two tables, which contained provisions so obnoxious to both patricians and rustic plebeians that it was impossible to get them ratified by the *comitia*.³ Moreover, the *plebs rustica*, on condition that these laws should be blocked, was willing to accept the alliance of the patricians.⁴ Now, if we can find just what the provisions in these two tables were, we can form some idea of what offended the rustic *plebs* and the patricians.

The refusal of the *conubium* was the most important provision that we know of in the last two tables.⁵ Now, such a refusal of the *conu-*

¹ Cf. p. 13. Liv. 3, 35, 5.

² Cf. p. 12.

³ Liv. 3, 51, 13: Decemviri querentes se in ordinem cogi non ante quam *perlati* *legibus*, quarum causa creati essent, deposituros imperium se aiebant. Cf. 3, 37, 4, Diod. 12, 24: οὔτοι δὲ τοὺς νόμους οὐκ ἠδυνήθησαν συντελέσαι.

⁴ Liv. 3, 37, 1, 3, 38, 10. Cf. also p. 16.

⁵ Cic. *de Re Pub.* 2, 63: Qui duabus tabulis iniquarum legum additis, quibus etiam quae diiunctis populis tribui solent conubia, haec illi ut ne plebi et patribus essent inhumanissima lege sanxerunt. Cf. Dionys. 10, 60, 2154, Gaius, *Dig.* 50, 16, 238. But Diod. 12, 26: τῶν γὰρ καλουμένων δώδεκα πινάκων οἱ μὲν δέκα συνετελέσθησαν, τοὺς δ' ὑπολειπομένους δύο ἀνέγραψαν οἱ ὕπατοι. If we accept this literally Valerius and Horatius are the authors of the refusal of the *conubium*, but to me it seems more probable that the contradiction is only apparent. Diodorus means that the consuls, after soothing the rustic *plebs*, promulgated the laws previously drawn up by the decemvirs.

bium with the patricians would be injurious in general to all persons among the rustic *plebs* with ambitions, but especially to such tribunician families as the Icillii and the Duillii, who by frequent terms of office were gradually building up a distinct plebeian nobility. In point of fact, we do find these tribunes leading the movement against the decemvirs.¹ On the other hand, as this law would not affect the humble traders of the city, we may fairly assume that they stood by the decemvirs to the end.

The laws of the last two tables must have contained something obnoxious to the patricians, but on this subject we cannot speak so definitely. Possibly the coinage regulations, if included here, were prejudicial to patrician interests. Certainly the publication of the calendar² was disadvantageous to them. At any rate sufficient friction arose to cause delay in the ratification of the laws. This friction may have been further increased by the determination of the decemvirs to push their laws through by exercise of the full authority of their office. They had two perfectly legitimate means at their disposal. First, they could with perfect legal right abandon their practice of the first year³ and refuse to admit appeals.⁴ With perfect legal right also they could refuse to resign when the year was up, because their laws had not yet been passed.⁵

But all this friction and turmoil would not have sufficed to unite such diverse factions as the patricians and the rustic plebeians. This union was brought about by the war, which clearly demonstrated the military incapacity of the decemvirs, or at least by confirming the belief of the

¹ Liv. 3, 44-54 *passim*.

² Macrob. 1, 13, 21 is proof that a calendar was now published. Livy, 3, 56, 12, speaks of a law of appeal, which may also have been inimical to patrician interests, especially if it admitted appeals to assemblies presided over by plebeian magistrates.

³ Liv. 3, 33, 8-10; Dionys. 10, 57.

⁴ Livy, 3, 32, 6, shows that the magistracy was one without appeal. Livy, 3, 36, 6, proves that the decemvirs did refuse appeals in the second year. Nam praeterquam quod in populo nihil erat praesidi sublata provocatione, intercessionem quoque consensu sustulerunt, etc. Cf. Dionys. 10, 59.

⁵ Dionysius, 11, 6, 2173, represents Appius as saying: οὐ γὰρ εἰς ἐνιαυτὸν ἀπεδείχθημεν οὐδ' εἰς ἄλλον τινὰ χρόνον ᾤρισμένον, ἀλλ' ἕως ἂν καταστησώμεθα πᾶσαν τὴν νομοθεσίαν. Mommsen, *Staatsrecht*, II³, p. 702, clearly perceives the extraordinary character of the office. Cf. also Liv. 3, 38, 1.

plebeians in that incapacity, made the *plebs* feel the need of *patrician generalship*. It was the *army*, that is the *plebs rustica*, under the leadership of the *tribunes* and the *patrician generals*, that made the secession first to the Aventine and then to the Sacred Mount.¹

Having completed this brief analytical survey of the main events of the decemvirate we have now to ask what the animating purpose of Appius was. If my reasoning is correct, Mommsen's theory cannot aid us. The truth lies, I think, rather in a combination of the views of Herzog and of Nitzsch. Their two theories, it is important to observe, approach more closely to each other at this particular period than is at first apparent. The point of contact is the important fact that the *trading classes were in the main clients of the patricians*. Herzog is right in believing that Appius wished to remove the permanent opposition of the tribunate, for in the second year, as we have seen, the bitter hostility of the tribunician leaders to the decemvirs is clearly marked. On the other hand, Herzog is entirely wrong in supposing that Claudius wished to do this² by widening the gap between patricians and plebeians, for that was the policy of Valerius, an inveterate enemy of the Claudian policy.³

¹ Cf. Liv. 3, 38, on the terror aroused by the war; on incapacity of the decemvirs, 3, 42; for hostility of the Valerii to the decemvirs, 3, 39, 2, a passage which illustrates the ancient conception of the feud between the Valerii, the traditional friends of the *plebs*, and the Claudii, the traditional tyrants. On the crisis in general cf. 3, 41, 3, 49, 3, 3, 50, 13-16, where these views are applied. For connection of Icilius with secession cf. 3, 51; of Duilius, 3, 52; for joyful reception of Valerius by the plebeians, 3, 53, 2.

² Herzog bases his view largely upon the law regulating the *conubium*, but cf. p. 22.

³ I hold that the object of the Valerio-Horatian laws was to widen the gap between plebeians and patricians by building up beside the patrician state a new parallel plebeian state with its own honors, offices, assemblies. Hence, (1) the restoration of the tribunate with its religious protection of *sacrosanctitas*, (2) the provision of the laws forbidding the creation of any magistracy without appeal, a direct slap at the decemvirate, Liv. 3, 55, 4, (3) the law providing (Liv. 3, 55, 3), 'ut quod tributum plebs iussisset populum teneret,' which established a coördinate assembly, practically plebeian, by the side of the *comitia centuriata*, practically patrician. The legislative decrees of both assemblies were equally binding. (4) The plebeians (cf. Liv. 3, 55, 13) have their own aediles in charge of decrees in the plebeian temple of Ceres.

The main object of Claudius was a patriotic one; he wished to maintain the close relation which had originally existed between the patricians and their plebeian clients, especially the city clients. This relation, however, was to be accurately defined by a code of written law which would protect the plebeians in their just rights, and even encourage their development. The relation was no longer to be left to caprice. In short, Dionysius is right ¹ εἰσῆλθε γάρ τις τὸν Ἀππίον ἐπιθυμία ξένη νέαν ἀρχὴν περιβαλέσθαι καὶ νόμους καταστήσασθαι τῇ πατρίδι ὁμονομίας τε καὶ εἰρήνης καὶ τοῦ μίαν ἅπαντας ἡγεῖσθαι τὴν πόλιν ἄρξαι τοῖς συμπολιτευομένοις. As a means to this end the tribunate was to be abolished, partly on account of the traditional dislike of the Claudii for that office, but mainly because it was the great obstacle to a single state.

The secondary object of Appius was to improve the condition of the city classes.² Nitzsch is mistaken in making this the main purpose of the reform and in assigning too great influence to these classes. In the first year of the decemvirate Appius was shrewd enough to effect a union of all classes. The small number of supporters left to the decemvirs after the coalition broke up in the second year is the best proof of the comparative insignificance of the urban *plebs* as a political support against the patricians united to the warlike *plebs rustica*. The reforms of Appius Claudius, therefore, failed principally because he could not retain the support of the ambitious rustic plebeians, who, aided by a certain faction among the patricians, best represented by the Valerii and the Horatii, were endeavoring to build up by the side of the patrician state a coördinate plebeian state. This feature of the early struggle between the orders has been too much overlooked. Later the plebeians became wiser and sought, not the creation of new offices to match those of the patricians, but an equal right in the great patrician office of the consulate, which was after all the presidency of the whole state. At the time of the decemvirate, however, the rustic *plebs* were too strongly enamored of another sort of political development to see the wisdom of

¹ 10, 54, 2137.

² Such phrases as ἀνδρες οὐ πᾶν ἐπιφανείς, Dionys. 10, 58, 2148, and *extollere candidatorum levissimum quemque humillimumque*, Liv 3, 35, 4, remind us strongly of the *forensis turba* associated with the reforms of Appius the censor.

the idea of Appius Claudius, which they adopted later in the struggle over the Sexto-Licinian laws.

Those members of the Claudian family who lived in the period between Appius the decemvir and Appius Claudius Caecus the censor are of no great historical importance, but may be summarily mentioned here, partly to insure genealogical completeness, partly to illustrate certain points in ancient historiography. Appius Claudius Crassus, son of the decemvir, military tribune with consular power in 424 B.C., according to Livy opposed the tribunes.¹ Publius Claudius Crassus, a younger son of the decemvir, was father of Appius Claudius, tribune with consular power in the year 403; both father and son are mentioned in the *Fasti* under *a. u. c.* 351 (403 B.C.), 392 (362 B.C.), and 405 (349 B.C.).² This is all we know of the father. The son first appears in 416 B.C., when, according to Livy,³ he makes a speech suggesting the veto power as a means of breaking up the solidarity of the college of the tribunes. Again in 403 he opposes their policy in regard to the Veian campaign, and like his ancestor is left by his colleague to watch the tribunes.⁴ After the fall of Veii Livy, in a speech of dubious historical value, represents him as urging that the soldiers be paid from the booty.⁵ From this time we hear nothing of him until 368, a period of nearly thirty years, when he is represented by Livy⁶ as speaking against the Licinian laws, mainly on religious grounds. Since, however, it is impossible to suppose that this Appius, who appears as consul as late as the year 349, could have enjoyed a political career of 65 years, Münzer⁷ is probably correct in regarding the speaker of 368 as another Claudius, perhaps the son of the consul of 403. We cannot absolutely disprove the truth of Livy's account, yet we shall find that scorn for religious ceremonial was one of the most marked characteristics of the Claudian

¹ Liv. 4, 35, 4, for office; 4, 36, 5, on general attitude.

² Cf. *CIL*. I, pp. 428, 430, 431.

³ Liv. 4, 48, 5, cf. 2, 44. The striking similarity of these two passages makes one strongly suspect that in both instances Livy is decking out the less known members of the family with a policy formed in strict accordance with his own theories.

⁴ Liv. 5, 2, 13; cf. 3, 36, 5. Again the striking similarity between the two passages suggests purely decorative work.

⁵ Liv. 5, 20, 5.

⁶ Liv. 6, 40, 2.

⁷ Pauly, *Lex.* Vol. II, 2, No. 122, s. v. *Claudius*.

race,¹ and, therefore, the passage is not free from suspicion. It was probably this latter Claudius who in 362 as dictator conquered the Hernici,² and who died as consul in the year 349.³ His son, Gaius Claudius Crassus, dictator⁴ in 337, is of interest only as being the father of Appius Claudius Caecus.

Two extant inscriptions describe the descent and *cursus honorum* of Appius Claudius Caecus, the great censor. First, in the *Fasti* we read:⁵

(*a. u. c.* 442) CENS AP CLAUDIVS C F AP N CAECVS

(*a. u. c.* 447) AP CLAUDIVS C F AP · N CAECVS

Second, in an *elogium*:⁶

APPIVS CLAUDIVS
C F CAECVS
CENSOR COS BIS DICT INTERREX III
PR · II AED CVR II Q TR MIL III COM
PLVRA OPPIDA DE SAMNITIBVS CEPIT
SABINORVM ET · TVSCORVM · EXERCITVM
FVDIT PACEM FIERI · CVM TYRRHO
REGE PROHIBVIT INCENSURA VIAM
APPIAM STRAVIT ET AQVAM IN
VRBEM ADDVXIT AEDEM BELLONAE
FECIT

Appius Claudius Caecus,⁷ the censor, was the most remarkable member of the Claudian family. Any fair consideration of his character, even in outline, demands allusion to his influence on literature, his public works, his administrative reforms, and his foreign policy.

¹ Cf. p. 53.

² Cf. Liv. 7, 6, 12 ff.

³ Liv. 7, 24, 11, 7, 25, 10; *CIL*. I, p. 444, on consulship and death, also *CIL*. I, p. 431.

⁴ Liv 8, 15, 5.

⁵ *CIL*. I, p. 432.

⁶ *CIL*. I, p. 287.

⁷ On the *cognomen* Caecus cf. Mommsen, *Röm. Forsch.* I, p. 302; Pauly, *Lex. s. v. Claudius*, Siebert, *Ueber Appius Claudius Caecus*, in which places most of the ancient testimony is collected. Cf. also Frontin. *de Aq.* 1, 5, who says that originally his *cognomen* was Crassus, and Pomp. *Dig.* 1, 2, 2, 36, who mentions the name *Centemmanus*, given on account of his building operations. Cf. Plut. *Marcell.* 17, 1.

Appius was one of the first Romans to adopt the practice of writing out his speeches after delivery. The speech in which he prevented the wavering senate from accepting the proposals of Pyrrhus, made through the eloquent Cineas, was one of the most famous examples of early Roman eloquence.¹ Panaetius had read his poetical sayings,² which are referred to by Cicero under the title of *Carmen Pythagoreum*.³ Pomponius mentions a title of a legal work *de Vsurpationibus*.⁴ In philology also Claudius was an innovator, for he recognized the fact of rhotacism and boldly introduced a phonetic spelling. He is said also to have banished the use of *z*, here again bringing writing into conformity with pronunciation.⁵ Such avocations are hardly those of the typical patrician.

To appreciate the serious work of Appius it is necessary to keep the political situation clearly in mind. The Second Samnite War, still raging, had long been draining the country districts of their able-bodied men, who were either employed in active military operations or had migrated to Campania to occupy as military colonists the conquered lands. Such colonists could not serve in the legions, yet more men were needed, for a new coalition was forming against Rome, in which the Etruscans had a leading part. It was under these circumstances that Appius entered upon his famous censorship.⁶

Perhaps the most intelligent account of this censorship is to be found in Diodorus,⁷ whose order in the main it will be convenient to follow. Diodorus remarks at the outset the motive of Claudius, and gives a concise statement of his general policy · τῷ δήμῳ γὰρ τὸ κεχαρισμένον ποιῶν οὐδένα λόγον ἐποιεῖτο τῆς συγκλήτου. He then goes on to say :

¹ Liv. *Per* 13; Cic. *Cat. Mai.* 16; *Brut.* 55, 61, *pro Cacl.* 34, *Philip.* 1, 11; *Auct. de Vir. Ill.* 34; Val. Max. 8, 13, 5, Suet. *Tib.* 2; Flor. 1, 13, 20; Justin. 18, 2; Eutrop. 2, 13; Ovid, *Fast.* 6, 203, Plut. *Pyrr.* 8 and 19; App. *Samn.* 10; Zonar. 8, 4; Senec. *Epist.* 19, 5, 13, Tac. *Dial.* 18, Quint. 2, 16, 7. See Saal, *de Appio Claudio Caeco*, p. 21, note 1.

² Sall. *ad Caes. de Re Pub.* I, 1, 2; Prisc. 8, 18, ed. Keil.

³ Cic. *Tusc.* 4, 4.

⁴ Dig. 1, 2, 2, 36.

⁵ Cf. Mommsen, *Röm. Forsch.* p. 303 and 304, Lindsay, *Hist. Lat. Gram.* p. 5.

⁶ On his *cursus honorum*, Siebert, *op. c.* p. 13, Saal, *op. c.* p. 20; Mommsen, *op. c.* p. 301, Pauly, *Lex. s. v. Claudius*.

⁷ 20, 36.

κατέμιξε δὲ καὶ τὴν σύγκλητον, οὐ τοὺς εὐγενεῖς καὶ προέχοντας τοῖς ἀξιωμασι προσγράφων μόνον, ὡς ἦν ἔθος, ἀλλὰ πολλοὺς καὶ τῶν ἀπελευθέρων υἱοὺς ἀνέμιξεν. So Livy: ¹ 'qui senatū primus libertinorum filiis lectis inquinaverat.' Elsewhere Livy refers to this act as 'infamis atque invidiosa senatus lectio' ² and as a 'prava lectio senatus, qua potiores aliquot lectis praeteriti essent.' ³ Finally, Suetonius says: ⁴ 'Claudius etiam Appium Caecum, generis sui proactorem, libertinos in senatū allegisse docuit, ignarus temporibus Appi et deinceps aliquamdiu libertinos dictos non ipsos qui manu emitterentur, sed ingenuos ex his procreatos.'

The simple explanation of this last passage seems to be that at the time of Appius Claudius Caecus a freed slave would become a *libertus* while the son of this *libertus* would be called *libertinus*. That is, the sons of *libertini* were the grandsons of the slaves originally manumitted. Against this interpretation, however, Mommsen ⁵ alleges (1) that this is the only passage in which such a distinction between *libertus* and *libertinus* is implied, and that elsewhere *libertini* denotes the class of freedmen in relation to public life, *liberti*, the individual freedmen in relation to their patrons. (2) Mommsen argues that since *libertus* is everywhere used with the patron's name added or understood in the genitive case, it could not designate freed slaves as a class. (3) He suggests that at the time of Appius Claudius Caecus *libertinus* possibly had two uses: it denoted (a) the manumitted slave, (b) the son of the manumitted slave. This interpretation of Mommsen's is possible, but by no means conclusive, for, in the first place, Mommsen has no right to quote against Suetonius passages referring to this period where such phrases as *filiis libertinorum* or the Greek equivalent occur, for in these passages we may by the hypothesis of Suetonius explain *libertinus* as meaning the son of the manumitted slave. Nor need we be surprised that no other passage confirms Suetonius's view, for that author expressly states that the distinction was not known even to the emperor Claudius, a most careful student of antiquity. In the third place, the fact that *libertus* is used in later historians to define the relation of a freedman to his

¹ 9, 46, 11.

² 9, 29, 7.

³ 9, 30, 1.

⁴ Suet. *Claud.* 24.

⁵ *Staatsrecht*, III³, 1, p. 422, notes 2 and 3.

patron is inconclusive for the time of Appius Claudius Caecus, for at that early period the taint of slavery might cause the *whole class of manumitted slaves, excluded from public life*, to be named merely as clients to their former masters, i. e. *liberti*. The sons of such men, who might have a far greater degree of political freedom, would perhaps, as Suetonius says, be called *libertini*. In fact we know that the taint of slavery was supposed to last for three generations, for the knights¹ must be able to trace their free descent at least so far back.

In view of the evidence brought forward by Mommsen it would perhaps be rash to assert positively that Appius introduced into the senate only the grandsons of freedmen. Still, nothing that he adduces positively disproves the simple interpretation of Suetonius. If then we should provisionally accept this literal interpretation, it is obvious that the social degradation inflicted on the senate was not so great after all. In any case these men were probably recruited from the *scribae*, *accensi*, and freedmen of similar standing. Doubtless Appius as a practical politician selected only the most influential among them, but this, as we shall see, made no difference to the hide-bound patricians or the assertive new nobility.

It is probable that in this *senatus lectio* Appius, in accordance with the letter, if not the spirit, of the Ovinian law, selected the best men from every class. Of this law Festus² says: '(lege Ovinia) sanctum est ut censores ex omni ordine optimum quemque curiati [iurati?] in senatum legerent.' Livy indeed tells us that some of the worthiest men were passed by:³ Yet Diodorus⁴ declares that Appius did not deprive a single knight of his horse, nor erase the name of a single unworthy member from the senate lists. From all of this testimony it is evident that Appius was endeavoring to build up a party devoted to his interests. And we may therefore ask what his purpose was.

Lange⁵ holds substantially that Appius wished to put in the place of the hated new nobility a patrician oligarchy. He tried, therefore, to sow discord between the wings of the coalition by exalting the influence

¹ Plin. *N. H.* 33, 32.

² p. 246 (M). Mommsen, *Staatsrecht*, II³, 1, 418, note 3, believes the law was passed just before the censorship. Cf. also Zonar. 7, 19, C.

³ 9, 30, 2.

⁴ *l. c.*

⁵ *Römische Alterthümer*, II³, p. 77.

of the patricians and humiliating the new plebeian nobility by new admissions to the senate. When, however, the patricians remained faithful to their alliance, he turned upon them with unreasoning demagogic rage and became the champion of the *humiles* and *libertini*. Herzog's view¹ is not dissimilar. He looks upon this as an ironical measure or an actual degradation of the senate, which Appius wished to debase while he increased the powers of the magistrates at its expense. Surely, however, Appius took a most roundabout way to show the aristocratic pride attributed to him by these modern historians. His patrician contemporaries at least viewed the matter differently, judging by their acts of the following year. Thus Livy² says: 'Itaque consules, qui eum annum secuti sunt, C. Iunius Bubulcus tertium et Q. Aemilius Barbula iterum, initio anni questi apud populum, *deformatum ordinem* prava lectione senatus, qua potiores aliquot lectis praeteriti essent, negaverunt eam lectionem se, quae sine recti pravique discrimine ad gratiam ac libidine facta esset, observaturos, et senatum extemplo citaverunt eo ordine qui ante censores App. Claudium et C. Plautum fuerat.' And Diodorus³ εἶθ' οἱ μὲν ὑπατοὶ διὰ τὸν φθόρον καὶ διὰ τὸ βούλεσθαι τοῖς ἐπιφανεστάτοις χαρίζεσθαι συνήγον τὴν σύγκλητον οὐ τὴν ὑπὸ τούτου καταλείψαν, ἀλλὰ τὴν ὑπὸ τῶν προγεγενημένων τιμητῶν καταγραφείσαν.

With such facts the hypothesis of Nitzsch squares nicely. He holds that Appius resolved to break down the opposition of the majority of the senate⁴ to his policy of building great public works by reconstructing the membership. This he did by admitting the most distinguished members of the *plebs urbana*, the class especially benefited by urban improvements. His method resembles in some degree therefore the creation of new peers, by which means an English premier may overcome the opposition of the House of Lords. But before approving this view we should consider the nature of the public works and their value to an urban community.

¹ *Römische Staatsverfassung*, I, p. 272.

² 9, 30; cf. 9, 46, 11.

³ *l. c.*

⁴ Nitzsch, *l. c.* p. 103. This view is confirmed by Diodorus, 20, 36: καὶ πρῶτον μὲν τὸ καλούμενον Ἀππίον ὕδωρ ἀπὸ σταδίων ὀγδοήκοντα κατήγαγεν εἰς τὴν Ῥώμην καὶ πολλὰ τῶν δημοσίων χρημάτων εἰς ταύτην τὴν κατασκευὴν ἀνήλωσεν ἀνευ δόγματος τῆς συγκλήτου.

The value of the great constructions of Appius, the aqueduct and the Appian road to Capua, is attested by several ancient writers. Thus Livy¹ 'Et censura clara eo anno Appi Claudii et C. Plautii fuit; memoriae tamen felicioris ad posterum nomen Appi quod viam munivit et aquam in urbem duxit eaque unus perfecit.' Diodorus² speaks in some detail of the Appian way, and Frontinus³ gives an excellent description of the Appian aqueduct. In the construction of these great public works Appius was returning to the policy of the regal period, but the persons especially benefited were the trading classes. The need of a copious water supply for the future urban growth of Rome is obvious. The construction of the Appian way to Capua had a combined military and commercial importance, the road was built in the year following a serious revolt, and greater accessibility would minimize the dangers of such revolts in the future, on the other hand, the improved means of communication with the greatest commercial city of southern Italy would secure immense advantages to the Roman merchants. Moreover, the necessity of employing large numbers of artisans on these works must have been an important consideration in their favor, both in the eyes of Appius and of the non-agricultural population.⁴

The admission of the commercial classes to the tribes was the most revolutionary of the reforms of Claudius. Of it Diodorus says⁵ ἔδωκε δὲ τοῖς πολίταις καὶ τὴν ἐξουσίαν ὅποι προαιροῦντο τιμῆσασθαι. And Livy:⁶ 'nec in curia adeptus est quas petierat opes, urbanis humilibus per omnis tribus divisus forum et campum corrumpit.' Plutarch:⁷ τοῖς δ' ἄλλοις ἀπελευθέρους ὅψε καὶ μετὰ πολὺν χρόνον ἐξουσίαν ψήφου δημιουργῶν ἔδωκεν Ἀππίος. Let us now consider briefly the interpretation of these passages given by modern scholars.

Upon the details of the reform Lange⁸ believes that land-holding as a prerequisite to the franchise was disregarded in the *tribal registers*, and the *humiles* were allowed to vote in whatever tribe they pleased. In

¹ 9, 29, 6.

² *l. c.*

³ Frontin. *de Aq.* 1, 5. On fame of these works, Cic. *pro Cael.* 34, Liv. 9, 29, 6; Auct. *de Vir. Ill.* 34, Eutrop. 2, 9, 3; Fest. p. 24, Pomp. *Dig.* 1, 2, 2, 36; Hieron. and Cass. *Chron. ad ann.* 442.

⁴ Siebert, pp. 59-63.

⁵ *l. c.*

⁶ 9, 46, 11.

⁷ *Popl.* 7.

⁸ *Römische Alterthümer*, II³, especially pp. 79, 80, 82.

the *comitia centuriata*, however, only the *landholding humiles*, previously thrust among the lowest class, were now distributed among all classes in strict accordance with their landed-property holdings. This change did not, however, deprive the nobility of their old preponderance. Herzog¹ holds in general that Appius cared little about the assemblies and senate, hence that their enlargement might easily be considered a sort of degradation, perhaps half-ironical. By this means the influence of the executive magistrates would of course be increased. He recognizes that Appius wished to bring into the military service all Roman citizens, and that such service implied the right to vote. In regard to the *comitia centuriata* Herzog ventures only to say that if movable property was put on an equality with land for civic rating, Appius would thus have equalized trade and agriculture. Siebert, in his monograph on Appius Claudius,² seems to believe that Appius might either receive only *humiles* with land into the rustic tribes or that he might distribute the whole city proletariat among all the tribes by removing the principle of landed property. This latter alternative, however, was not adopted because, as an aristocrat, Appius by a union of the old patricians and the *humiles* wished to crush the new plebeian nobility. In general Siebert holds that the readjustment in the tribes affected only the land-holding freedmen, and that non-landholding citizens benefited not at all. Finally, Nitzsch³ believes that the distribution of the proletarians among the tribes implies that the city people might now have permission to purchase real estate, but that by an extension of the census to cover moveable property those who neither held real estate nor had bought it might enter the higher census classes. This measure was at once just and revolutionary, just, because the whole people had supported the war, revolutionary, because it changed the character of the Roman citizen body and gave the city *plebs* control of the *comitia*, which were held at Rome.

¹ *op. c.* I, pp. 269-271.

² Cf. especially pp. 48-49. Some minor details in this treatise seem open to criticism. Thus the distinction between *forensis turba* and *forensis factio*, words clearly used interchangeably by Livy, and that between *humiles* and *humillimi*, are quite worthless. On p. 50 no argument can be based on the corrupt reading of the passage of Diodorus which Siebert follows.

³ p. 104 ff.

What are we to say in the face of these conflicting views? In the first place, it is obvious that Appius was introducing a military measure, designed to compel all citizens to bear the burdens of the Samnite war. Now, the citizens hitherto exempt from such service were in the main the *libertini*, proletarians, *opifices*, *sellularii*, who belong in general to the artisan and shopkeeping class, and are described with substantial correctness by the term *humiles*.¹ In the second place, if these people gained the right to bear arms, it was manifestly unfair to withhold from them the right to vote, especially to decide upon questions of peace and war. Now the decision of peace or war rested with the *comitia centuriata*; hence they ought to obtain a vote, and a vote that would count for something, in that body. Livy clearly implies that they did obtain a privilege of that sort by the phrase *campum corrupti*, from which we may infer that the standing of the *humiles* in the *comitia centuriata* was improved. Lange holds that in the tribes the position of all *humiles* was improved, but in the *comitia centuriata* only the *humiles* with landed property were advanced. This is not a matter susceptible of absolute proof, but, in the first place, there is no motive implied in the ancient authorities which would lead Appius thus to distinguish between the *comitia centuriata* and the *comitia tributa*. In the second place, it seems very doubtful whether the '*campus*' would be corrupted if only men with landed property were raised to the higher classes. Hence *a fortiori* Siebert's view that landed property alone was regarded in both tribes and centuries seems untenable, for it is doubtful if the army would have been increased by such a measure. My general conclusion, therefore, is that it is probable that in making up the lists for the tribes and centuries movable property was reckoned along with landed property; and that thus a large number of *humiles* were distributed among all the tribes and gained an improved condition in the *comitia centuriata*.² This conclusion gains additional prob-

¹ All of these persons were citizens, for even freedmen were enrolled in the four city tribes by Servius Tullius and enjoyed a sort of modified citizenship. Cf. Dionys. 4, 22; Liv. I, 43, 8.

² It will be noticed that I have assumed that membership in the tribes and centuries was based originally on landed property. Mommsen, *Staatsrecht*, III³, I, p. 247, and Lange, I³, p. 491, hold this view. Moreover, on *a priori* grounds we should naturally expect this to be the case with an agricultural people like the early

ability from the fact that though the *senatus lectio* of Claudius was abrogated almost immediately, his readjustment of the tribes was not changed until the close of the war, when Quintus Fabius Maximus came into power. But before considering these Fabian reforms a word should be said of certain other military reforms of the period, apparently inspired directly by the party of the censor, and of his interesting interference in religious affairs.

In speaking of the year 311 Livy describes two war measures.¹ The first provided 'ut tribuni militum seni deni in quattuor legiones a populo crearentur, quae antea, perquam paucis suffragio populi relictis locis, dictatorum et consulum ferme fuerant beneficia;' the second, 'ut duumviros navales classis ornandae reficiendaeque causa idem populus iuberet.' The first measure was distinctly in favor of the rural plebs and the army, for it increased the number of military tribunes whom the people might elect from six to sixteen. It may well be doubted if the city classes were especially benefited. On the other hand, the second measure, by its policy of trade and naval expansion, would benefit the city classes almost exclusively. Indeed, if confidence is to be placed in the testimony of Polybius,² these commercial classes served mainly on the fleet. In this last fact is to be found a partial explanation for the absence of any great growth of the census lists as a result of these reforms, for those who served on the fleet were probably assessed outside the ordinary lists. It is probable also that many of the new citizens merely made good the gap in the census roll caused by the foundation of new Latin colonies.

The innovations of Appius in religion were quite in keeping with the

Romans, whose general attitude towards trade is correctly characterized by Dionys. 9, 25. Then the information of Livy, 1, 46, in regard to Servius Tullius's system of land distributions is naturally associated with the census organization. The term *assiduus* there employed is certainly connected with land-holding, as shown by Fest. p. 9 (M). (The derivation of Cic. *de Re Pub.* 2, 40, is wild.) This fact also lies at the basis of the story of Attus Clausus and his clients, cf. p. 4. Finally, even at a later period, when without doubt other property besides land was reckoned in the census, we have many passages that seem to hark back to the times when membership in the tribe and land-holding within its boundaries were closely connected, not to say synonymous; e. g. Cat. *Orig.* p. 30, ed. Jord.; Cic. *pro Flacc.* 79; Fest. p. 58 (M); Pliny, *N. H.* 18, 9; Liv. 45, 15, 1.

¹ 9, 30, 3.

² Polyb. 6, 19, 3.

general attitude of his house. The yearly carousal of the *tibicines* in the temple of Jupiter derived no sanctity in his eyes from its supposed religious character. He accordingly forbade it. But the religious formalism of the Romans was too strong for him, and he was obliged to yield.¹ The transfer of the cult of Hercules from the patrician Potitii and Pinaril rests on a somewhat different basis. It was a protest against religious formalism, an effort, probably animated by no irreverent feelings, to popularize among the city classes what had hitherto been the sacred monopoly of two exclusive families.² The great vogue which this cult, with its *Ara Maxima* in the *Forum Boarium*, obtained later suggests that there was something in the character of Hercules which especially appealed to the Roman masses. Here, too, should be mentioned the temple which Appius is said to have vowed to Bellona in the year 296, when engaged in a fierce battle with the Etruscans.³

The ordinary term of eighteen months was all too short for the completion of these varied and magnificent reforms. Appius must have been especially concerned for his great public works. If three centuries and a half later the improvements of the emperor Claudius at the harbor of Ostia were regarded as impracticable, Appius the censor may well have feared the abandonment of his own works, which could hardly have been more than begun in his term.⁴ This must have been the main motive in his determination to retain his censorship to the very end of the five year period originally allotted to that office. Diodorus⁵ indicates the cause of his refusal to resign *καὶ πολλὰ τῶν δημοσίων χρημάτων εἰς ταύτην τὴν κατασκευὴν ἀνήλωσεν ἄνευ δόγματος τῆς συγκλήτου . . . κατανήλωσεν ἀπάσας τὰς δημοσίας προσόδους.*

Of the attempt of the tribune Publius Sempronius⁶ to compel Appius, since the abdication of his colleague Plautius the sole holder of the

¹ Liv 9, 30, 5, Ovid, *Fast.* 6, 657; Val. Max. 2, 5, 4, Plut. *Quaest. Rom.* 55, Censorin. *de Die Nat.* 12, 2; Dio Cass. 49, 15, 8.

² Liv 9, 29, 9. Cf. also Liv 1, 7; Val. Max. 1, 1, 17; Auct. *de Vir Ill.* 34, Fest. 217 and 237 (M), Macrob. *Sat.* 3, 6-14, Serv. *ad Aen.* 8, 179 and 269; Lactant. 2, 8, Dionys. 1, 40; Schwegler, *Gesch.* I, p. 353 ff.

³ Liv. 10, 19, 17; Ovid, *Fast.* 6, 203.

⁴ Frontinus, *de Aq.* 1, 5, expressly says: 'qui multis tergiversationibus extraxisse censuram traditur donec et viam et huius aquae ductum consummaret.'

⁵ Diod. *l. c.*, cf. Liv. 9, 29.

⁶ Liv. 9, 33 ff.

censorship, to resign, little need be said. The tribune rested his case upon the Aemilian law,¹ which had limited the censorship to eighteen months. Appius had three technical points in his favor. First, the well-known principle that no Roman magistrate could constitutionally be forced out of office. Second, the fact that from some points of view the censorship had probably never been legally limited to eighteen months, all contracts were for five years, and on several occasions magistrates had with the approval of the senate served out their full term in order to superintend public works.² Third, Appius, in his speeches in Livy, is apparently basing a constitutional argument on the fact that a man who is *censor creatus optimo iure* cannot have his maximum term of five years abridged to eighteen months. It seems to me that, technically speaking, Appius had constitutional arguments on his side, but it is clear that he was proceeding in violation of the spirit of the constitution in retaining his office without the approval of the senate.

Two facts seem to show that he had influential support among the people at large. In the first place, three of the tribunes interposed their veto to Sempronius's proposal. Thus Livy says:³ 'Adprobantibus sex tribunis actionem collegae, tres appellanti Appio auxilio fuerunt, summaque invidia omnium ordinum solus censuram gessit.' In the second place, he secured his own election to the consulate for the year 307.⁴

The consulship of Appius⁵ was entirely devoid of political importance. A vigorous war was waged against the Sallentini, but Appius remained in

¹ On the Aemilian law cf. Liv. 4, 24, 3 ff.; Zonar. 7, 19; also Lange, I³, p. 665, Mommsen, *Staatsrecht*, II³, p. 349 and 351, with notes.

² So in Frontin. *de Ag.* 1, 7, we find that Marcus 'holds over.' A similar request is made by the censors of 169; cf. Liv. 45, 15, 9. On the length of term cf. Cic. *de Leg.* 3, 3, 7 'bini sunt, magistratum quinquennium habento; and Zonar. 7, 19.

³ 9, 34, 26.

⁴ The resignation of Plautius, the colleague of Appius, and, according to Frontin. 1, 5, the discoverer of the springs, proves the dominating influence of Appius. Plautius might have used his veto. Cf. Diod. *l. c.*, Siebert, p. 17; Herzog, *op. c.* p. 273.

⁵ The story of Liv. 9, 42, 3, may be rejected; it is incredible that Appius, who had remained in office to the end of his term, should then resign under pressure.

the city, either because he was aware of his own incapacity, or because the patrician senate refused to trust him with a command.¹

Appius succeeded in bringing about the election of the famous Cn. Flavius, a freedman's son, to the curule aedileship for the year 305. This Flavius, a clerk to Appius and the first freedman's son to hold office in Rome, by his intelligence and energy aided the reform movement of his patron. Of the publication of the *leges actiones* Livy says:² 'Civile ius repositum in penetralibus pontificum evulgavit fastosque circa forum in albo proposuit, ut quando lege agi posset sciretur.' The effect of such a publication is obvious;³ it freed the ordinary citizen from the legal monopoly of the *pontifices*, just as the change in the cult of Hercules had in a way freed him from the religious monopoly of the Potitii and Pinarii. Appius might have attempted such a reform in person, but he wisely preferred to avail himself of the services of a notary with wide technical and legal experience.

After such a series of revolutionary reforms a reaction was bound to occur sooner or later. Still, the war tended to stifle successful opposition, if not criticism. The censors of the year 307, C. Junius Bubulcus and M. Valerius Maximus, popular men, well suited to lead such a reaction, remained passive,⁴ probably because they needed the services of the *plebs urbana* in the field. When, however, in the year 304 the war was brought to a close, Q. Fabius Rullianus, the most eminent leader of the patricians, and Decius Mus, a famous statesman of the rustic *plebs*, were made censors, this notwithstanding the fact that the censorial elections were not regularly held until 302.

¹ On his consulship cf. Liv. 9, 42.

² 9, 46, 5, for his energy of character cf. his throwing away of the scribe's tablet, 9, 46, 2; also 9, 46, 9, where he makes the rude nobles respect his office.

³ On the relations of Appius and Flavius in general and the work of Flavius cf. Plin. *N. H.* 33, 17; Cic. *ad Att.* 6, 1, 8 and 18, *pro Mur.* 25, Val. Max. 2, 5, 2; 9, 3, 3; Pomp. *Dig.* 1, 2, 2, 7; Macrob. 1, 15, 9. Since the calendar was among the laws of the Twelve Tables, we see that Appius was only continuing the policy of his ancestor, the decemvir. Perhaps, we may attribute to Flavius a literary form of the calendar; cf. Marq. *Sacrales.* p. 287. Cf. also Lange, I³, p. 353, 369; II³, p. 88, Herzog, *op. c.* p. 275; on the publication, Mommsen, *Gesch.* I⁸, p. 471.

⁴ They even imitated the building operations of Appius by erecting a temple to *Salus* and constructing roads. Liv. 9, 43, 26; Lange, II³, 90.

Livy¹ gives the following account of their work 'Ex eo tempore in duas partes discessit civitas, aliud integer populus, fautor et cultor bonorum, aliud forensis factio tendebat, donec Q. Fabius et P. Decius censores facti, et Fabius, simul concordiae causa, simul ne humillimorum in manu comitia essent, omnem forensem turbam excretam in quattuor tribus coniecit urbanasque eas appellavit.' This reform meets with the approval of the ancient authorities. It is probably true that the arrangement of Appius had given too much weight to the city classes, but if by the arrangement of Fabius these men were not only crowded into four tribes, but forced to vote last, the reaction went too far in the other direction. It must have had an effect similar to the modern device known as the 'gerrymander' in the United States.²

So much for the internal policy of Appius. His external policy was Pan-Italian. Rome was to be the head of a united Italy. To maintain that position she must be supplied with dignified public works, hence the Claudian aqueduct, and be able to keep in close communication with important trade and military centres, hence the road to Capua. Above all, the Romans must be capable of extending their commercial relations and offering suitable protection to a united Italy, an aim which was secured both by the system of road building and the development of the *socii navales*. The famous speech of Appius, warning Pyrrhus out of Italy, was but the dramatic summing up of the results already attained by practical statesmanship. The notice of Suetonius,³ 'Claudius Drusus, statua sibi diademata ad Appi Forum posita, Italiam per clientelas occupare temptavit,' probably refers, according to

¹ 9, 46; cf. Plut. *Pomp.* 13, where Plutarch has possibly confused the senate with the assemblies.

² I think that this is all we can say on the basis of the ancient authorities. We do not have enough evidence to decide whether all the *humiles* were thrust back into the city tribes or only the non-land holding *humiles* were thus degraded. Hence the discussions of Lange, II³, 90 ff., of Siebert, p. 79 ff., and of Herzog, p. 276 ff., are entirely speculative. If it is necessary for us also to speculate, we may perhaps guess that Fabius could hardly have taken the *comitia* out of the hands of the *humiles* without thrusting all of the men whose condition Appius had improved, both land holders and non-land holders, back into the city tribes. Hence it seems to me rather more probable that this was a complete return to the conditions existing before the censorship of Appius than a compromise measure.

³ Suet. *Tib.* 2.

all modern historians, to Appius Claudius Caecus. In this case we have rather another instance of the efforts of the family to extend their influence beyond the city proper than any attempt to gain regal power.¹

After viewing the net results of the work of Appius, — the temporary strengthening of the army,² the creation of a naval policy, the inception of two magnificent public works, in external politics, the breaking down of religious and legal monopolies and the improvement of the civil status of merchants and artisans, in internal politics, — one feels that the hypothesis of Nitzsch affords the most rational explanation of the petty intrigues and broad results of the struggle.

The last years of Appius, though affording no such evidence of vast political activity, present some minor problem which seem to imply at first sight that the later attitude of Appius was reactionary. Thus in 300 his opposition to the Ogulnian law,³ which admitted plebeians to the sacred colleges, while in keeping with the general hostility of the family to all tribunician movements, is strangely at variance with his policy in religious affairs and in the reforms of Flavius. Of course it is in flat contradiction to the hypothesis of Mommsen, and even to apply Nitzsch's theory, and say that as the city *plebs* would not benefit at all, Appius, their champion, opposed the law, seems not altogether satisfactory.

Two other apparent inconsistencies admit of more satisfactory explanation. In the year 299, when Appius was an *interrex*, he opposed, according to Cicero,⁴ the election of a plebeian consul. On the other hand, if we follow Livy,⁵ we have no difficulty, for Livy's annalistic source mentioned no such act. Even in Cicero's more detailed account we need not assume that Appius wished altogether to deprive the plebeians of a consul. For since Manius Curius Dentatus, the representative of the rustic plebeians, 'cum de plebe consulem non accipiebat (*sc.* Appius), patres ante auctores fieri coegerit,' it will be

¹ This same tendency is illustrated by the marriage of one of the daughters of the Claudian house to one of the leading magistrates of Capua; cf. p. 43.

² Perhaps this strengthening of the army may be called more than temporary, for in subsequent crises we again find freedmen and slaves serving in army or navy; cf. Liv. 10, 21, 3; 22, 11, 8, 40, 18, 7; 42, 27, 3, 42, 31, 7; 43, 12, 9; Aul. Gell. 16, 10, 12 ff.

³ Liv 10, 7, 1.

⁴ Cic. *Brut.* 14, 55.

⁵ Liv 10, 11, 10.

quite as natural to explain Cicero's words as meaning that Appius wished to force the election of a plebeian more closely identified with his own views.

In the year 297, when Claudius was a second time candidate for the consulship, Livy¹ asserts that he put forth great efforts to persuade Fabius, the presiding officer, to return himself as consul, and thereby completely exclude the plebeians from the chief magistracy. Fabius, however, with noble self-abnegation refused to do this, and Lucius Volumnius again became the colleague of Claudius. Here, it seems to me, we are confronted with a contradiction in Livy's sources. We are expressly told that in the year 307² Appius vigorously opposed the prorogation of the command of Fabius. The sweeping changes Fabius made in the reforms of Appius in the tribes have already been noticed. In the third place, we find that at a later date Fabius practically had Appius deposed from his military command in Etruria,³ an incident inconsistent with friendship. It seems likely, therefore, that this passage had its origin in some biased and self-laudatory annals of the Fabian house, which contrasted the dignified restraint of the Fabii with the political greed of other patricians, who, like Appius the decemvir, had not scrupled to receive votes for themselves.

The second consulship of Appius Claudius was full of active campaigning, first in Samnium,⁴ then in Etruria,⁵ where he displayed the usual Claudian incapacity in military affairs, and won final success only with the appearance of his colleague, Volumnius, and by vowing a temple to the goddess Bellona.⁶ In the year 296 Appius became praetor and remained with his army until he was finally dismissed, largely through the influence of Fabius.⁷ The time of his dictatorship, mentioned in the elogium, is placed by Mommsen between 289 and 285.⁸ His speech against Pyrrhus has already been considered.

¹ Liv. 10, 15, 7

² Liv. 9, 42, 2.

³ Cf. Liv. 10, 22, 7-25, 9, for wars of Appius and his dismissal.

⁴ Liv. 10, 17, and the *elogium*.

⁵ Liv. 10, 18 and 19. On these wars cf. Pauly, *Lex.* p. 2681 ff., no. 9.

⁶ Cf. p. 35.

⁷ Liv. 10, 22, 7-9; 24, 18; 25, 4-10. After the battle of Sentinum Appius (cf. Liv. 10, 31, 3-8) went to Campania.

⁸ *CIL.* I, p. 287.

Appius Claudius Caudex, consul in the year 264 B.C., is set down in the *Fasti* as the brother of the censor.¹ Living at the beginning of a period of rapid imperial expansion, he saw clearly the advantage of the possession of Sicily, both for commerce and for imperial aggrandizement, and was not afraid to act boldly. He was perhaps the best general of the family, as is shown by the successful dash of his operations about Messana.² Like his brother (?), he too saw the necessity of naval development, in fact, he was regarded by the Romans as their first naval leader. Thus Suetonius says of him:³ 'Claudius Caudex primus freto classe traiecto Poenos Sicilia expulit;' and Seneca:⁴ 'quis Romanis primus persuaserit navem conscendere? Claudius is fuit, Caudex . . . appellatus.'

Appius Claudius Rufus, a son of the censor, was consul in 268, when, according to the *Fasti Triumphales*,⁵ he won a triumph over the Picentes. Velleius⁶ tells us that colonies were founded at Ariminum and Beneventum and the right of voting was given to the Sabines during his term. He was the first member of the family to be associated in office with a member of the Sempronian gens.

His brother,⁷ Publius Claudius, consul in 249, was a much more picturesque figure. In the *Fasti Capitolini* under 505 *a. u. c.* we read .

P. CLAUDIVS AP F C N PVLCHER L IVNIVS C F L N PVLLVS
M · CLAUDIVS C F GLICIA · QVI SCRIBA FVERAT DICTATOR
COACT ABDIC
SINE MAG EQ IN EIVS LOCVM · FACTVS EST⁸

¹ *CIL.* I, p. 434, Vell. Pat. I, 12; Val. Max. 2, 4, 7. This relationship is certainly incorrect. Appius Claudius Caecus holds his first great office in 312, but his brother does not become consul until 264, a difference of 48 years. Even Claudius Rufus, the nephew, consul in 268, precedes his uncle Caudex by four years. What the real relationship was we can only guess.

² For the ancient testimony on these campaigns cf. Pauly, *Lex.* p. 2693 ff., no. 102.

³ Suet. *Tib.* 2.

⁴ Sen. *de Brev. Vit.* 13, 4.

⁵ *CIL.* I, p. 457.

⁶ Vell. Pat. I, 14, 7; in general on his career cf. Eutrop. 2, 16; Liv. *Per.* 15, Flor. I, 14.

⁷ Another, brother Tiberius Claudius Nero, was the founder of the famous family of the Claudii Neronēs.

⁸ *CIL.* I, p. 434. Cf. *CIL.* X, 6838, where on a very old *miliarium* he is named as curule aedile.

The details of his campaign against Drepana are well described by Polybius.¹ His disastrous defeat was always looked upon as a sign of divine vengeance for the drowning of the sacred chickens.² The appointment of his freedman Glicia to the dictatorship, alluded to in the *Fasti*, was made on his return to Rome, it was in fact his ironical answer to the censure of the senate and its command that he appoint a dictator. Of course, the nomination was annulled. Still, we cannot help seeing here another illustration of the closeness of the bond that united the Claudian patron to his client. It is surely obvious that such a relation as existed between Claudius and Glicia or between the censor and Flavius was entirely different from the ordinary relation of patricians to their dependents. The trial on a charge of *perduellio* mentioned by the *Scholia Bobbiensia*³ is merely important as a sign that this Claudius was not the first nor yet the last member of the family against whom, as the result of tactless pertinacity, such a charge was preferred.⁴

A third son of the censor, Gaius Claudius Centho, is nothing but a name to us. We know merely his *cursus honorum*.⁵ consul 240, censor 225, interrex 217, dictator 213.

Appius Claudius Pulcher, consul in the year 212,⁶ the son of Publius, was a soldier pure and simple, whose life was marked by no events of political importance. After the battle of Cannae he went to Sicily,⁷ where he rendered efficient service to Marcellus during the siege of Syracuse.⁸ As consul in 212 he, with his colleague Fulvius, engaged in

¹ Polyb. 1, 49, 3-51, 12. Cf. Diod. 24, 1, 5, Zonar. 8, 15, Liv. *Per.* 19; Flor. 1, 18, 1, 29; Eutrop. 2, 26, 1, Oros. 4, 10, 3; Front. *Strat.* 2, 13, 9; Schol. Bob. p. 337.

² Cic. *de Nat. Deor.* 7, *de Div.* 1, 29; 2, 71, Liv. *Per.* 19; 22, 42, 9; Flor. 1, 18, 29; Eutrop. 2, 26, 1, Val. Max. 1, 4, 3, 8, 1, *abs.* 4, Suet. *Tib.* 2, Dio, *frag.* 43, 32.

³ Schol. Bobb. *pro Cael.* p. 337; cf. Polyb. 1, 52, 2; Val. Max. 8, 1, *abs.* 4, Cic. *de Nat. Deor.* 2, 7; 2, 71.

⁴ E. g. Appius the decemvir, cf. Liv. 3, 56 ff., C. Claudius, censor 169, cf. p. 49.

⁵ On consulship cf. *CIL.* 1, p. 435, Cic. *Tusc.* 1, 3, *Cat. Mai.* 50; *Brut.* 72; Gell. 17, 21, 42; interrex, cf. Liv. 22, 34, 1, dictator, 25, 2, 3.

⁶ Previously aedile, cf. Liv. 22, 53, 2.

⁷ Liv. 23, 24, 4, 23, 30, 18.

⁸ For his campaign against Bomilcar, Liv. 23, 41, 10-12; negotiations with

the siege of Capua. Both consuls showed excellent generalship in not being drawn away from the siege by Hannibal's feint on Rome.¹

That some connection existed between the Claudii and the town of Capua may be inferred from the fact that Claudia, the daughter of Appius Claudius, was married to one Pacuvius Calavius, who in 216² was the highest magistrate at Capua. Since she already had an adult son, it is difficult to believe that she was the daughter of the consul of 212, and yet his speech³ in behalf of the Capuans is best explained on the theory of some such relationship. At any rate, these facts, taken in connection with the passage of Suetonius on the Italian policy of the censor, prove that the family did not affect the typical patrician exclusiveness.

Appius Claudius Pulcher was son of the consul of 212, as we see from the *Fasti*.⁴ He saw service under Flaminius in Greece, where he acted as a sort of staff officer to the commander and aided in diplomatic negotiations with Philip.⁵ In the year 194 he had charge of two detachments, first in Boeotia, then in Thessaly and Epirus.⁶ Livy and Appian⁷ both mention his clever strategy near Larissa. He also fought under Glabrio against the Aetolians.⁸ Elected to the consulship in the year 186, with Marcus Sempronius Tuditanus as colleague, he waged a successful war against the Ligurians.⁹ His efforts to gain the consulship for the next year for his brother afford an excellent example of the close tie binding the members of the patrician house together. The attempt was characterized by a reckless disregard for political conventionalities which naturally shocked the scrupulous Romans.¹⁰ It is interesting to find, however, that in Livy's account Claudius is backed by a party among the tribunes. That Claudius was a diplomat of

Hieronymus, Liv. 24, 6 and 7; at siege of Syracuse, Liv. 24, 27; 24, 29; 24, 30; 24, 33; 24, 36; 24, 39; Polyb. 8, 3, 7; 5, 1, 6, 9; Plut. *Marcell.* 14, Zonar. 9, 4.

¹ Liv. 25, 2; 25, 3, 25, 41, 26, 1, 26, 5, 26, 6; 26, 8, 26, 15, 26, 16; App. *Hann.* 37, 40, 43, Polyb. 9, 7, 7; Zonar. 9, 6.

² Liv. 23, 2, 6.

³ Liv. 26, 15, 2. Cf. Liv. 26, 33, 13, for other evidence of a connection between the Claudii and Capua.

⁴ *CIL.* I, p. 436.

⁵ Liv. 32, 35 and 36.

⁶ Liv. 34, 50.

⁷ Liv. 36, 10, 10 ff.; App. *Syr.* 16.

⁸ Liv. 36, 22, 8, 36, 30.

⁹ Liv. 39, 32, 4.

¹⁰ Liv. 39, 32, 5 ff.

approved worth is implied by the two embassies which he undertook; the first to Macedonia and Greece in 184;¹ the second to the Aetolians in 174.²

The circumstances under which Publius Claudius Pulcher, the brother of Appius, gained the consulship have just been related. Previous to that time he had been curule aedile in 189³ and praetor in 188.⁴ We know little of his politics, but two inscriptions attest his interest in Italian affairs. The first apparently makes him patron of Nola:⁵

P. CLAVDIO PVLCHRO

COS

PATRONO

The second informs us he was triumvir of the colony of Gravisca in the year 181,⁶ before which time he had apparently enrolled new colonists at Cales.

p. claudius ap. f. p. n. pulcher

colonos ADSCRIPSIT CALES COS·CVM

l. porcio IIIvir·COLONIAM DEDVXIT GRAVISCAM

These facts are not without interest when we remember the connection of a later member of the family with the Gracchan agrarian movement.

Gaius Claudius Pulcher, consul in the year 177 and censor in 169 B.C.,⁷ was a brother of Appius and Publius. The information upon his political career contained in the ancient authorities is so suggestive that I have no hesitation in ranking him as one of the great leaders of the house, close behind the decemvir and the censor. Claudius held some other important offices and commissions. He was augur in 195,⁸ and in the year 191 he sat as praetor upon cases of poisoning in the capital and vicinity.⁹

The most important legislation of his consulship was the *lex Claudia*

¹ Polyb. 22, 16, 4, 22, 17, 1-18, 13, Liv 39, 33, 3-34, 6; 35, 5-37, 21.

² Liv. 41, 25, 5. In 154 (cf. Polyb. 33, 13, 4) he goes to Prusias in Bithynia.

³ Liv. 38, 35, 5.

⁴ Liv. 38, 35, 10; cf. *CIL*. I, p. 436; Cic. *Brut.* 60, for consulship.

⁵ *CIL*. X, 1250.

⁶ *CIL*. I, p. 279; cf. Liv 40, 29, 2.

⁷ *CIL*. I, p. 436; Liv. 41, 8, 1; Polyb. 25, 4, 1; Cic. *pro Cael.* 33.

⁸ Liv. 43, 44, 3.

⁹ Liv. 40, 37, 4.

*de sociis*¹ which ordained : 'qui socii ac nominis Latini, ipsi maioresve eorum, M. Claudio T. Quinctio censoribus postve ea apud socios nominis Latini censi essent, ut omnes in suam quisque civitatem ante kal. Novembres redirent.' A law for the prevention of fictitious adoptions and emancipations made for the purpose of gaining Roman citizenship was not passed, though the Latin ambassadors pleaded earnestly for such legislation.² Instead it was decided to pass a *senatus consultum* by which all magistrates before whom manumissions took place should demand subscription to an oath that the manumission did not have for its object a change of civic rights.³

Lange⁴ declares in substance that the immediate effect of this law was to widen the gap between the Latins and the Romans. He further points out that this Claudius was the first who made a distinction between Latins and Romans in triumphal donations, giving to the Latins only one half as much as to the Romans.⁵ Again in 173, when Liguria was divided, the Latins received allotments of three, the burgesses of ten *iugera*. At the time of this law⁶ poor Latins used to sell their sons to *cives libertini*, by whom they were manumitted, becoming *cives libertini* and thus gaining citizen rights. Others adopted sons, left them in their homes, and went to Rome themselves, having thus complied with the letter, though not with the spirit, of the law they gained Roman citizenship. Indeed, many Latins crept in without any justification at all. In general, then, Lange regards this law as a measure in the interests of the lowest plebeians and freedmen. It was important because it not only banished the Latins from Rome, but it sanctioned for the future an exclusion of the Latins from Roman citizenship.

I find myself able to agree with this view only in part. I believe that the main object of the law was, first, to prevent the depopulation of the Latin towns by immigration to Rome, second, to protect the industrial classes of the capital from ruinous competition in a labor market already overcrowded, in short, that the law was an economic, not a political measure. Livy, it is true, represents the immigration of the Latins as due to a desire to better their political position; but as we

¹ Liv. 41, 9, 9.

² Liv. 41, 8, 9 ff.

³ Liv. 41, 9, 10.

⁴ Lange, *op. c.* II³, p. 274.

⁵ Liv. 41, 13.

⁶ Lange, *op. c.* II³, p. 271.

hear of no such concerted movement before this period, the inevitable conclusion is that Livy was mistaken as to the main cause of immigration. The chief cause was economic. After the devastation wrought by the Second Punic War the ignorant Latins gravitated to the city to escape ruin.¹ Now, if the Latins were to obtain any advancement at Rome and to fulfill the military duties which Rome demanded of their several communities, they were practically forced to evade stringent laws either as regards military service or as regards citizenship. The laws on citizenship presented a less formidable barrier, and it was also more advantageous for the Latins to fight in the army than not, hence these systematic evasions of the residence and franchise laws, the cause of which Livy, who was no political economist, misinterpreted. Indeed, the bare facts as told in Livy² point to this same conclusion. Thus we learn that the reform was undertaken at the request of ambassadors from the Latin towns. 'Moverunt senatum et legationes socium nominis Latini, quae et censores et priores consules fatigaverant, tandem in senatum introductae. Summa querellarum erat, cives suos Romae censos plerosque Romam commigrasse; quod si permittatur, perpaucis lustris futurum ut *deserta oppida, deserti agri nullum militem dare possent.*' Most modern historians, ignoring these facts, seem to assume that the expulsion of the Latins from Rome was against the protests and interests of the Latins themselves, but the above quotations do not bear out such a view. At least the leading Latin citizens felt the need of such action.

Secondly, the measure was probably designed to relieve the overcrowded labor market of the capital. We have no proof of this in the ancient historians, but it is an almost inevitable deduction from the economic condition of the times, from the general policy of the Claudian house, and from the later attitude of Gaius Claudius in his censorship. From this point of view the law had the effect of an immigration exclusion act, but as an immigration exclusion act made at the request of the Latin home governments it could not, Lange to the contrary, have widened the breach between Latins and Romans.³

¹ On the wretched economic state of Italy cf. Liv. 28, 11, 8; 39, 41, 6; 42, 19, 1 and 2.

² Liv. 41, 8, 6. The whole passage is illuminating

³ It is needless to speak here of the audacious disregard of precedent shown by Claudius at the outbreak of the Istrian war, of the details of the campaign, or of

At this time also Claudius apparently had a colonial policy, for which there must have been abundant economic reasons. He may have been instrumental in the foundation of Luna¹ which took place in his consulship. In any event, there seems to be no reason to doubt that the letter to the senate, in which, according to Livy, he set forth the great advantages that would accrue to the populace by the distribution of the lands conquered in Cisalpine Gaul,² represents with substantial accuracy the policy of Claudius.

On his return from a campaign against Perseus in 169³ he became censor, with Tiberius Sempronius Gracchus as his colleague.⁴ Their censorship was marked by strictness and energy. First, by severe legislation⁵ they reorganized the Roman army in Macedonia, which, owing to the laxity of the commanders, was on the verge of disintegration.⁶ Then they purged the senate by striking seven names from the roll.⁷ Their scrutiny of the knights was even more severe,⁸ but the greatest cause of offense to this order was their method of letting out public contracts and the annulment, doubtless with good cause, of all contracts made by the censors Fulvius and Postumius.⁹ After much vain agitation the contractors finally succeeded in winning over the tribune Rutilius, who, filled with personal animosity to the censors, promulgated a *rogatio*, that all contracts let out by Claudius and Gracchus should be null and void, and that the right of bidding should be open to all. On the day for considering the law Rutilius, taking advantage of a technical carelessness of Claudius, brought against him a charge of *perduellio* for having interfered with the functions of the tribune.¹⁰ In the trial which followed Claudius, in spite of the adverse vote of the majority of the first class and of the knights, was saved, not so much by the spectacular action of the senators, recounted in Livy and elsewhere, as by the efforts of his colleague Gracchus.¹¹

his double triumph. On the campaign cf. Liv. 41, 10, 5-41, 18 *passim*, on his triumph, Liv. 41, 13, 6-8, *CIL*. I², pp. 48 and 341.

¹ Liv. 41, 13, 4.

² Liv. 41, 16, 9.

³ Liv. 42, 49, 8.

⁴ Liv. 43, 14, 1.

⁵ Liv. 43, 15, 5-7.

⁶ Liv. 43, 14, 7.

⁷ Liv. 43, 15, 6.

⁸ Liv. 43, 16, 1.

⁹ Liv. 43, 16, 2.

¹⁰ Liv. 43, 16, 3 ff.

¹¹ Cf. Liv. 43, 16, 14, Auct. *de Vir Ill.* 57; Val. Max. VI, 5, 3. On the wonderful concord of the censors cf. Cic. *de Invent.* 1, 48, Gell. 7, 16, 11; Fest. p. 285 (M).

In this narrative the opposition of the commercial classes to Claudius, as shown by the action of the contractors and the knights, is significant. It is, of course, possible to dodge this difficulty by saying that Claudius was not opposed to the commercial classes as such, but merely to their efforts to loot the treasury. Such an answer is far from being entirely satisfactory. We shall come nearer the truth, I fancy, if we remember that Nitzsch has on the whole rather overestimated the closeness of the relation between the Claudii and the wealthier classes. In spite of his mistake in emphasis we are surprised at the close approximation to his general theory revealed by a study of such leaders as Appius the decemvir and Appius the censor; but the average members of the house seem to have acted rather in the interests of the small shopkeepers and artisans who belonged largely to the class of *libertini* and clients.

We see this same solicitude for the interests of the lower city classes in the action of Claudius in relation to the status of the freedmen and the tribes, perhaps the most important incident of his censorship. Livy's account best explains the principles involved:¹ 'In quattuor urbanas tribus discripti erant libertini praeter eos, quibus filius quinquenni maior ex se natus esset . . . eos ubi proximo lustro censi essent censi iusserunt et eos qui praedium praediave rustica pluris sestertium triginta milium haberent . . . censendi ius factum est. Hoc cum ita servatum esset, negabat Claudius suffragii lationem iniussu populi censuram cuiquam homini, nedum ordini universo adimere. Neque enim si tribu movere possit, quod sit nihil aliud quam mutare iubere tribum, ideo *omnibus quinque et triginta tribus* emovere posse, id est civitatem libertatemque eripere, non ubi censeatur finire, censu excludere. Haec inter ipsos disceptata; postremo eo descensus est ut ex quattuor urbanis tribubus unam palam in atrio Libertatis sortirentur, in quam omnes qui servitutem servissent coicerent.'² These words suggest several important considerations. In the first place, it is obvious that the legislation made a distinction between the more and the less prosperous *libertini*. The more prosperous were listed among the country tribes. As Ihne has it,³ "The influence of the poorest classes was thus re-

¹ Liv. 45, 15.

² Cf. also Cic. *de Orat.* 1, 38; Auct. *de Vir. Ill.* 57.

³ *Hist.* Vol. IV, p. 38.

stricted to a minimum, and those freedmen who gave proof of thoroughly conservative sentiments and of attachment to Rome either by owning large portions of land or by marrying and raising families were ranked with the best of the citizens." The importance attached to family raising was thus shown by making it the basis of a genuine timocratic distinction of the same general nature as the reforms introduced by the census of Servius Tullius.

It is evident from Livy's¹ testimony that this law was the result of a compromise · 'gratiae actae et Sempronio, qui in bene coepto perseverasset, et Claudio, qui non impedisset.' Personally, I am inclined to believe that Claudius had the best of the bargain, for he had succeeded in improving decidedly the condition of the progressive *libertini*, had maintained the admirable constitutional point that the censor could not remove citizens from *all* the tribes, and had made the slightest concession possible to his colleague in agreeing to confine the unprogressive *libertini* to a single tribe. In short, Gaius Claudius, although much neglected by modern historians, was a useful statesman, who seems to have followed the same general policy as the decemvir and the censor.

Like the censor, also, Gaius Claudius spent large sums for public works.² Indeed, we are informed that the censors even asked for a prorogation of their term on this ground, but this was prevented by the veto of the tribune Tremellius.³ Finally, in the year 167, after the battle of Pydna,⁴ Claudius went to Macedonia with nine others on a sort of peace commission to aid L. Paullus. He was also detached to visit Achaia.⁵ His death apparently occurred during this year.⁶

Appius Claudius Pulcher, the son of Gaius, was consul in the year 143.⁷ Appius Claudius and Publius Licinius Crassus were the leaders of the party opposed to the partisans of Scipio.⁸ In the year 143 the elections went against the Scipionic party on the whole, Appius Claudius Pulcher and Q. Caecilius Metellus Macedonicus were elected consuls. Like his father, Appius bent all his energies to securing a triumph. He selected a war against the Alpine tribe of the Salassi as the most satisfactory means to this end.⁹ When, however, he returned

¹ Liv. 45, 15, 7.

² Liv. 44, 16, 9.

³ Liv. 45, 15, 9.

⁴ Liv. 45, 17, 2.

⁵ Polyb. 30, 13, 8.

⁶ Liv. 45, 44, 3.

⁷ CIL I, p. 438.

⁸ Cic. *de Re Publ.* 1, 31.

⁹ On the wars cf. Dio Cass. *frag* 74, ed. Bekk., Oros. 5, 4, 7; Obseq. ed. Jahn, 21; Strab. 4, 74, 10; Liv. *Per* 53.

to Rome the senate refused him a triumph. He, therefore, determined to celebrate a triumph at his own expense and within the city. One of the tribunes attempted to prevent this, but his purpose was foiled by the daring of Claudia, the general's daughter, a Vestal Virgin, who escorted her father to the Capitol.¹

In the year 142 Appius made a bitter but unsuccessful canvass for the censorship against P. Scipio Aemilianus.² Later, in the year 136, he gained the office with Q. Fulvius Nobilior as his colleague.³ The severity of their censorship is hinted at in a fragment of Dio.⁴ According to Lange⁵ the office was gained only after he had been transformed like a true Claudian from a champion of the *optimates* into a defender of the popular party, this transformation being partly the result of the influence of the Gracchi, partly of friction with the nobility. It is true that we have statements to this effect in Plutarch, but we have no acts to substantiate them. Opposition to the Scipionic circle is certainly made out. Doubtless ultra-patricians belonged to this opposition, but it is also true that the leaders of the city populace were equally opposed to the main tenet of the Scipionic creed, the extension of the suffrage to the allies. It is, therefore, quite as reasonable to assume that Claudius belonged to this wing of the opposition, but the evidence is confessedly meagre on either side.

In any case, the association of Claudius with the Gracchi is due to the traditional friendship existing between the Claudian and the Sempronian gens. Appius Claudius Rufus, consul in 268, was associated with a Sempronius in the campaign against the Picentes.⁶ C. Claudius Centho, also associated with a Sempronius in the consulship,⁷ was

¹ Cic. *pro Cael.* 34, Val. Max. 5, 4, 6; Suet. *Tib.* 2. Claudius had as precedents for his attitude the case of L. Postumius Megillus, 294 B.C., and of C. Flaminius and P. Furius Philus in 223; cf. Mommsen, *Staatsrecht*, I³, p. 134. Polyb. 6, 15, 8, proves, however, that the senate had control of triumphs.

² Plut. *Praecep. Rei Pub. Gerund.* 11, 10, and *Paul.* 28, 3; Cic. *de Re Pub.* 1, 19, 31, *pro Scaur.* 32.

³ Plut. *Tib. Gracch.* 4, 1, Dio, *frag.* 80. Macrobian 3, 14, 14, shows he was a *Salus*, and Plut. *Tib. Gracch.* 4, 1, an augur.

⁴ Dio, *frag.* 81, ed. Bekk. Cf. Plut. *Tib. Gracch.* 4, 1.

⁵ II³, p. 346.

⁶ Eutrop. 2, 16, Flor. 1, 14.

⁷ *CIL.* I, p. 435; Cic. *Tusc.* 1, 3, *Cat. Mai.* 50.

himself appointed dictator by a member of that gens.¹ Appius Claudius Pulcher and M. Sempronius Tuditanus were consuls in the year 185.² Finally, Gaius Claudius Pulcher, the father of Appius, held both consulship and censorship with the father of the Gracchi, and the personal relations between the two men were remarkably close.³ This traditional friendship between the two families was cemented by the marriage of the daughter of Appius to Tiberius Gracchus.⁴

Under these circumstances his appointment to the Gracchan land commission of three was, even on a purely family basis, most natural.⁵ A second reason, however, may perhaps be found in the growing interest of the Claudian family in all such colonial and economic reforms. Thus in 268, when Claudius Rufus was consul, colonies were founded at Beneventum and Ariminum. Publius Claudius, the uncle of Appius, had been triumvir of Gravisca and perhaps patron of Nola.⁶ The colonial ambitions of Gaius, the father of Appius, have been alluded to.⁷ It was shortly after this appointment that Appius and Licinius died, and their places were filled by the appointment of Flaccus and Carbo.⁸

With this period the history of the consistent development of any clan policy may perhaps end. The rule of houses was now drawing to a close at Rome, the Fabii, the Scipios, the Aemilii were losing the influence which they had exercised upon politics by clan traditions, the rule of individuals was now beginning, and the autocracy, successful or attempted, of a Marius, a Sulla, a Pompey, a Caesar, foreshadowed the dyarchy of an Augustus. Before the genius of such men clan policies must yield. Hence we need not be surprised to find Clodius serving as 'the ape of Caesar,' or the systematic, but unoriginal Tiberius, carrying out the general policy of Augustus, in whose school he had been so accurately trained. The study of the politics of the later

¹ Liv. 25, 2, 3.

² CIL. I, p. 436.

³ CIL. I, p. 436; Liv. 41, 8, 1, Polyb. 25, 4, 1, Cic. *pro Cael.* 33; Obs. 8.

⁴ Plut. *Tib. Gracch.* 4.

⁵ CIL. I, p. 156, 552; cf. also CIL. X, 289, 3760, 3861, Liv. *Per.* 58, Vell. Pat. 2, 2; App. *B. C.* I, 13, 1, 18, Plut. *Tib. Gracch.* 13, 1.

⁶ Cf. p. 44.

⁷ Cf. p. 47.

⁸ App. *B. C.* I, 18. On the oratory of Appius cf. Cic. *Brut.* 108.

members of the gens properly belongs to another paper, though such a study would doubtless throw great light upon many events in the earlier history of the gens.

What, then, are the essential points in the policy of the patrician Claudii as developed by this investigation of each member of the gens from 495 to 133 B.C.?

In the first place as regards the earlier and more obscure members of the Claudian family the results of this investigation are purely destructive. Examination seems to show that the traditional view of their policy rests almost entirely upon rhetorical speeches and the *dicta* of the historians, as distinguished from recorded acts. Thus Appius Claudius Pulcher, consul in the year 495 B.C., delivers several orations against the *plebs* or in defence of their creditors, the patricians. In Dionysius,¹ in fact, we have the career of Appius dramatically set forth in six speeches. Almost our entire testimony upon the life of Gaius Claudius, the so-called uncle of the decemvir, is made up of such harangues.² Our information as to the consulship of Appius Claudius the decemvir in 471 is much confused from the same cause. Again we have a series of four speeches assigned to Appius Claudius Crassus,³ consul of 403, one of the most obscure members of the family. On the other hand, comparatively few speeches are assigned to the more important men, such as Appius the decemvir, Appius Claudius Caecus the censor, and Gaius Claudius the censor of 169. Even with minor personages the number of fictitious speeches decreases as the historians draw nearer their own period. It is, therefore, perfectly evident that the historians amplified their meagre annalistic sources by manufactured speeches.

But may not the ascription of such patrician characteristics to the Claudian gens, made so persistently in these speeches by all the ancient historians, imply that such actually was the dominating temper of the family? We may fairly admit this claim if the recorded acts of the family do not contradict the testimony of the speeches. In this paper, however, it has been my endeavor to prove that such a contradiction does exist. Are we, then, to regard these speeches as malicious inventions, or as the results of the falsification of some earlier annalist? I

¹ Cf. p. 7.

² Cf. pp. 8 and 9.

³ Cf. p. 25.

cannot accept either of these alternatives. On the contrary, I believe that these historians had some justification for their views in two Claudian characteristics.

In the first place, nearly every true Claudian was possessed of a self-sufficient, but tactless pride, which sought well-defined ends, but in the pursuit of them seemed to rejoice in offending the sensibilities of the average Roman citizen. Thus Appius Claudius the decemvir,¹ contrary to all precedent, is said to have received votes for himself when presiding over the assembly. Ironical pride, though certainly not the leading motive, may have played some part in the admission of the sons or grandsons of freedmen to the senate by Appius Claudius Caecus,² and also in his connection with Flavius.³ To disgrace the senate Publius Claudius, consul in 249,⁴ named his freedman Marcus Claudius Glicia dictator, when himself ordered to lay down the consulship after the defeat at Drepana. The impatient wish of his sister Claudia,⁵ that her brother might live again and by another defeat lessen the crowd that pressed upon her litter, illustrates the same trait. In the year 185 B.C. Appius Claudius Pulcher, then consul, conducted a successful, but unseemly canvass for the election of his brother Publius.⁶ Both Gaius Claudius, consul 177, and Appius Claudius, consul 143, made unscrupulous efforts to gain the honor of a triumph.⁷ Although such acts of pride and reckless audacity will be recognized by a thoughtful investigator as not inconsistent with democratic leadership, to the mind of the popular historian they are more naturally associated with aristocratic principles.

Especially offensive to Roman prejudices must have been the manifestation of this independence in religious affairs. Thus Appius Claudius Caecus deprived the Potitii and Pinarii of their sacred monopoly at the *Ara Maxima*,⁸ and unsuccessfully attempted to do away with the annual feast of the pipers.⁹ The drowning of the sacred chickens by Publius Claudius became a proverbial instance of impiety.¹⁰ Even the famous act of Claudia Quinta,¹¹ though in the event approved by the *Magna*

¹ Cf. p. 13.

² Cf. pp. 28-30.

³ Cf. p. 37.

¹⁰ Cf. p. 42.

⁴ Cf. p. 42.

⁵ Suet. *Tib.* 2.

⁶ Cf. p. 43.

⁷ Cf. pp. 46, 49.

⁸ Cf. p. 35.

⁹ Cf. p. 35.

¹¹ For the numerous ancient references to this event cf. Pauly, *Lex. s. v. Claudius*.

Mater, was essentially an unprecedented assumption of priestly functions by a private citizen. The means by which Claudia as Vestal Virgin secured her father's triumph in the year 143 must have seemed little less than sacrilege.¹ To later historians such indifference to religious ritual might well seem like arrogant patrician scorn of the most sacred institutions of the state. In reality, however, this trait associates the family rather with plebeian feeling, for that class always showed scant regard for the old patrician religion, which was so often used to thwart their political advancement.²

The consistent opposition of the Claudii to the tribunician families and their policy furnishes a far more important reason for the attitude of the ancient historians. Gaius Claudius in the year 457 is said to have opposed the increase of the tribunes from five to ten;³ as consul in 471 Appius Claudius opposed the Publilian law of Volero.⁴ As decemvir in 450 he was supposed to have planned the abolition of the tribunate;⁵ and the tribunician families of the Icillii and the Duilii are represented as especially opposed to the decemvirate.⁶ Appius Claudius Caecus was assailed under the Aemilian law by the tribune Publius Sempronius.⁷ Publius Claudius was charged with *perduellio* by one of the tribunes,⁸ and Gaius Claudius, whose course in his censorship, 169 B.C., aroused the most violent opposition of the tribunician faction, was finally brought to trial on the same charge by the tribune Rutilius.⁹ It was a tribune who attempted to deprive Appius Claudius, the consul of 143, of his triumph.¹⁰

¹ Cf. p. 50.

³ Cf. p. 8.

⁴ Cf. p. 10.

⁹ Cf. p. 47.

² Cf. Marq. *Sacrales*. pp. 39, 51, 66.

⁵ Cf. p. 13.

⁶ Cf. p. 22.

⁷ Cf. p. 35.

⁸ Cf. p. 42.

¹⁰ On the other hand, the Claudii sometimes found support among the tribunes. Thus Appius Claudius Caecus is retained in office, in spite of the motion of Sempronius, by the veto of three tribunes; cf. p. 36. Appius Claudius, the consul of 185, is apparently aided by a party among the tribunes in his efforts in behalf of his brother; cf. Liv. 39, 32, 12. Appius Claudius, the consul of 143, is closely associated with the reforms of the two great Gracchan tribunes. This apparent contradiction can, however, be most satisfactorily explained on the theory that these members of the house, like other patrician leaders, knew how to manipulate the tribunician veto power in their own interests. The association of Appius Claudius Pulcher with the reforms of the Gracchi is due to affinity and to sympathy with their agrarian ideas.

If, then, we believe that the entire safety of democratic principles at Rome depended upon the tribunes, we must accept the view of the reactionary policy of the Claudian house, either in its fullest extent as found in the ancient historians, or in its modified form as set forth by Herzog. That the tribunes were the original leaders of the movement by which the more intelligent and wealthy members of the rustic *plebs* gained political equality with the patricians cannot be doubted. That the tribunician families, even before such an equality had been finally gained, tended to coalesce with a considerable party of liberal tendencies among the patricians into a new nobility, based on office holding rather than descent, seems equally certain. Moreover, we have plenty of evidence that, as the tribunate grew in importance, the families who monopolized it showed a tendency to separate from the lower ranks of the people, especially from the city trading classes, and even to act at times as ministers of the senate.¹

The first article, therefore, in the political creed of the Claudii was a persistent and inherited opposition to the policy of the tribunes, the champions of the *plebs rustica*. The second article, held with equal sincerity and fervor, was the defence of the *libertini*. This, it seems to me, is the central fact in the history of the family, from which all

¹ Thus at the time of the Sexto-Licinian laws (Liv. 6, 39, 5 ff.) the mass of the people wish to vote on the law of debt alone, and seem to care nothing about political equality. So in Livy, 7, 19, we hear that the people, engrossed by their private distress, are not disturbed by the election of two patrician consuls. We have several illustrations of the tribunes yielding to senatorial influence. Thus in Dionysius, 10, 9, the tribunes, at the suggestion of the senate, drop the Terentilian rogation. In the earlier days of the college patricians were even coöpted into the office; Liv. 3, 65, 1, 5, 10, 11. In Livy, 5, 25, 1, we hear that the settlement of Veii was prevented by the union of the patricians and part of the college of tribunes. In 393 (cf. Liv. 5, 29, 6) Virginius and Pomponius are assailed because to gratify the patricians they had opposed the proposals of their tribunician colleagues. The efforts of Manlius to improve the condition of the lower classes are thwarted by the union of the consular and the plebeian tribunes. Livy especially tells us, 7, 19, 5, that the latter put themselves under the direction of the senate. The nobility even persuade a part of the tribunes to veto the Licinian laws, cf. Liv. 6, 35, 6. In Livy, 7, 15, we find the tribune Poetilius proposing a corrupt practise act at the suggestion of the senate. In Livy, 8, 33, the father of Fabius appeals against the sentence of Papirius, the plebeian dictator, to the plebeian tribunes. In Livy, 10, 37, also, the tribunes appear once more as ministers of the nobility.

theories as to its position in Roman political life must start. It would seem, moreover, that this interest in the freedmen proceeded not from a desire to use their influence for vulgar personal ambition, but from an enlightened purpose to improve the condition of the lower classes in the state. In this patronage of the freedmen is to be found the simplest explanation of the action of Appius the decemvir in 471, in opposing the Publilian law of Volero.¹ Appius Claudius Caecus admitted the sons or perhaps the grandsons of manumitted slaves to the senate.² In order to secure for the state, then in the throes of the Second Samnite War, a larger army, he admitted the *humiles*, among whom the *libertini* must have been very numerous, to all the tribes,³ and probably gave them an improved standing in the *comitia centuriata*. The election of Cn. Flavius to the curule aedileship⁴ in 305, secured largely through the influence of the censor, was a recognition of the services which the intelligent city freedmen could render the state. Doubtless, Publius Claudius was influenced by this precedent when he appointed his freedman Glicia dictator.⁵ Animated by the same policy, Gaius Claudius⁶ in his censorship, 169 B.C., improved the condition of the progressive freedmen within the tribes, and guaranteed membership in one tribe to even the most unprogressive. If we were to extend this inquiry to the later republic and the empire, we should find such important men as the tribune Publius Clodius and the emperor Claudius showing the same interest in the position of the freedmen. Thus in the year 58 B.C. Clodius restored the political, social, and religious associations of the freedmen which centred around the *compita*.⁷ The influence of freedmen over the emperor is almost proverbial. In fact, his admission of freedmen to the senate⁸ appears to have been modelled on that of Appius Claudius Caecus.

If the Claudii were sincerely devoted to the interests of the *libertini*, we shall not be surprised to find them also endeavoring to improve the political, social, and economic conditions of the city classes in general, for the *libertini* were perhaps the most numerous element in this *plebs*

¹ Cf. p. 10.² Cf. pp. 31-34.³ Cf. p. 42.⁴ Cf. pp. 28-30.⁵ Cf. p. 37.⁶ Cf. p. 48.⁷ Cic. *pro Sest.* 34, 55, *in Pis.* 9; *Red. in Sen.* 33; *de Dom. sua*, 54, *ad Att.* 3, 15, 4, *Ascon.* p. 8, *Dio Cass.* 38, 13, *Plut. Cic.* 30.⁸ Tac. *Ann.* 11, 24, *Suet. Claud.* 24.

urbana, which made its living, not by agriculture and constant warfare like the *plebs rustica*, but by shopkeeping, the mechanical arts, and petty commerce. In fact, we do find this policy strongly marked. Thus a college of *mercatores* was probably established by Appius Claudius, consul of 495 B.C.¹ The laws of the Twelve Tables contained provisions on boundaries and for the organization of trade guilds, and probably introduced coinage regulations and the publication of the calendar.² Appius Claudius Caecus, the greatest statesman of the family, made the welfare of the city classes the centre of his policy. He improved their political condition in the tribes and *comitia centuriata*, thus making them at once citizens and soldiers;³ he improved their economic condition by employing them on vast public works designed to make Rome the commercial and political centre of Italy;⁴ it seems probable that he secured for them a measure of social equality by putting movable property on the same basis as landed property for civic ratings.⁵ Finally, through the publication of the *legis actiones* and calendar by Flavius, he secured to the humblest citizens fair treatment in the law courts.⁶ The career of Gaius Claudius, consul in 177 and censor in 169, affords a most striking parallel to that of Appius Claudius Caecus. He tried to protect the city classes from the ruinous competition of Italian immigration by the *lex Claudia de sociis*.⁷ He raised the progressive members of the four city tribes to a higher position in the *comitia tributa* and *comitia centuriata*.⁸ Finally, he constructed such important public works that he too was obliged to request the prorogation of his censorship.⁹

Besides protecting the city classes the more far-sighted statesmen, and under this term I do not mean to include the average Claudian consul, had a lofty conception of the expansion and solidarity of the Roman power. This was especially true of Appius Claudius Caecus, who, if the testimony of Suetonius¹⁰ be true, may have looked beyond the city state, and who planned naval and commercial development,¹¹ that Rome might, as the head of a united Italy, become a 'world

¹ Cf. p. 7.

² Cf. p. 20.

³ Cf. pp. 31-34.

⁴ Cf. p. 31.

⁵ Cf. p. 33.

⁶ Cf. p. 37.

⁷ Cf. p. 45.

⁸ Cf. p. 48.

⁹ Cf. p. 49.

¹⁰ Cf. p. 38.

¹¹ Cf. p. 38.

power.' The active part taken by Claudius Caudex in furthering the annexation of Sicily is the natural development of this policy.¹

The interest in colonization shown by certain later members of the gens is naturally connected with the desire to expand Roman influence and with the efforts to improve the condition of the city populace by agrarian reforms. Thus during the consulship of Appius Claudius Rufus colonies were founded at Ariminum and Beneventum.² Publius Claudius, consul in 184, added to the number of colonists at Cales, was a triumvir of the town of Gravisca,³ and perhaps a patron of Nola.⁴ Gaius Claudius, censor in 169, was an earnest advocate of the distribution of the lands conquered in Cisalpine Gaul.⁵ Finally, Appius Claudius, consul in 143, was one of the Gracchan commissioners for distributing lands.⁶

It is evident, therefore, that the results of this investigation of the Claudian policy do not confirm any of the four theories outlined above. The ancient view, enforced largely in rhetorical speeches, which represents the Claudii as ultra-patrician, arose naturally from their proud self-sufficiency and opposition to the tribunes. It must be rejected, however, because the acts of the family stand in striking contrast to the views of the ancient historians, and because opposition to the tribunate does not necessarily imply a reactionary policy. Mommsen saw this contradiction and naturally concluded that the Claudii were leaders of the plebeians. His view is on the whole unsatisfactory, first, because it fails to account for the opposition of the family to the tribunes, second, because it makes no distinction between the *plebs urbana* and the *plebs rustica*. The view of Herzog is too fine-spun. It lays too great stress upon the ironical pride of the family in referring several important reforms to that source. In regarding the Claudian patronage of the *libertini* and city classes as proceeding from the lust for despotic power Herzog is as vague as the ancient historians themselves. Nitzsch's view approaches more closely the truth, it seems to me. He grasped correctly the central fact that the Claudii were interested in the city classes, but he errs, especially in the earlier period of Roman history, in regarding these classes as a body of prosperous merchants engaged

¹ Cf. p. 41.

² Cf. p. 41.

³ Cf. p. 44.

⁴ Cf. p. 44.

⁵ Cf. p. 47.

⁶ Cf. p. 50.

in transmarine commerce rather than as a despised crowd of petty tradesmen, recruited largely from the client and freedman class. To believe that Appius the decemvir wished to make Rome a great commercial centre is a species of anachronism. Doubtless, this purpose controlled the policy of Appius Claudius Caecus and Claudius Caudex, the extent to which it influenced the later members of the family is problematical.

This paper has, I trust, at least suggested the possibility of a somewhat different conception of the family policy. The Claudii appear to me to have been sincere but often tactless and arbitrary champions of the despised city classes. They are constantly opposing the policy of the tribunes, the champions of the *plebs rustica*, whose interests often conflict with those of the *plebs urbana*. The great men of the house are Appius Claudius the decemvir, who aimed to unite all classes into one city state, whose citizens should enjoy the harmony secured by a written code of law;¹ Appius the censor of 312, who desired to make Rome the political and commercial centre of a united Italy, and Gaius Claudius, the censor of 169, the protector of the economic interests of the capital.

¹ Dionys. 10, 54.